

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

UNITED STATES OF AMERICA

v.

JORGE FLORES, ET AL.

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)
) 3:18-cr-00293
) JUDGE RICHARDSON
)
)
)
)

BEFORE THE HONORABLE ELI J. RICHARDSON, DISTRICT JUDGE

TRANSCRIPT OF PROCEEDINGS

TRIAL VOLUME 9 of 18

April 18, 2023

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Physical clear plastic bag with red strip across top and yellow exhibit sticker, containing smaller clear plastic bags. White sticker adhered to smaller plastic bag - DR25345870, Incident: 20160244745, Category: Drugs, Suspect: Ochoa, Carlos, Description - Possession with intent, cocaine packaged in individual bags. Bar code on sticker - ZCW1X44L0VXE9A, handwritten in black ink "Box 150 N."	

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Physical clear plastic bag with red strip across top and yellow exhibit sticker, containing eyeglasses and eyeglass case.	
Government Exhibit 21	237
Clear plastic bag with red strip across top of it, containing copper-colored projectile, clear smaller plastic bag, small brown envelope, white folded paper. White sticker on outside bag - PR25388738, Incident: 20160685052, Category: Property, Description - Homicide, bullet in brown envelope, recovered from right arm by medical examiner. Bar code on white sticker - ZC0VA4P60KLEB.	
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Physical clear plastic bag with red strip across top and yellow exhibit sticker, containing silver projectile and brown paper bags. White sticker in bag - Case Number: 76075-17-0064, Action - Retained for evidence. Cust Date - 05/26/2020, Exh # 162, Description of Property - Other - .40 caliber projectile recovered from Hansey Sanchez's body, Bar Code information - 2443633.	
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Clear plastic bag with red strip across top of it, containing bullet fragments, small gauze pad, two yellow envelopes and white folded paper. White stickers on small yellow envelope - MEC#17-1353, GARCIA MUNOZ, AMMERLI, 05/21/2017, BULLET FRAGMENTS FROM LEFT BACK.	

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2	Government Exhibit 43 253
3	Clear plastic bag with red strip across
4	top of it, containing copper project,
5	small clear plastic bag, two yellow
6	envelopes and white folded paper. White
7	stickers on small yellow envelope -
8	MEC#17-1353, GARCIA MUNOZ, AMMERLI,
9	05/21/2017, BULLET FRAGMENTS FROM RIGHT
10	SIDE OF BACK.
11	Government Exhibit 44 253
12	Clear plastic bag with red strip across
13	top of it, one yellow envelopes and
14	white folded paper. White stickers on
15	small yellow envelope - MEC#17-1353,
16	GARCIA MUNOZ, AMMERLI, 05/21/2017,
17	BULLET FRAGMENTS FROM LEFT ILIAC VEIN
18	Government Exhibit 45 253
19	Clear plastic bag with red strip across
20	top of it, containing copper-like
21	damaged projectile, one yellow
22	envelopes and white folded paper. White
23	stickers on small yellow envelope -
24	MEC#17-1353, GARCIA MUNOZ, AMMERLI,
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	Government Exhibit 46 253
	Clear plastic bag with red strip across
	top of it, containing silver damaged
	projectile, one yellow envelope and
	white folded paper. White stickers on
	small yellow envelope - MEC#17-1353,
	GARCIA MUNOZ, AMMERLI, 05/21/2017,
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	BACK.
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	Clear plastic bag with red strip across
	top of it, containing copper-like
	damaged projectile, one yellow envelope
	and white folded paper. White stickers
	on small yellow envelope - MEC#17-1353,
	GARCIA MUNOZ, AMMERLI, 05/21/2017,
	BULLET FRAGMENTS FROM SPINE.

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Government Exhibit 48 253
Clear plastic bag with red strip across top of it, containing copper-like damaged projectile, one yellow envelope and white folded paper. White stickers on small yellow envelope - MEC#17-1353, GARCIA MUNOZ, AMMERLI, 05/21/2017, BULLET FRAGMENTS FROM EIGHT INTERCOSSTAL SPACE.

Government Exhibit 49 253
Clear plastic bag with red strip across top of it, containing copper-like damaged projectile, one smaller clear plastic bag, one yellow envelope and white folded paper. White stickers on small yellow envelope - MEC#17-1353, GARCIA MUNOZ, AMMERLI, 05/21/2017, JACKET FROM TENTH INTERCOSSTAL SPACE.

Government Exhibit 50 253
Clear plastic bag with red strip across top of it, containing copper-like damaged projectile, one yellow envelope and white folded paper. White stickers on small yellow envelope - MEC#17-1353, GARCIA MUNOZ, AMMERLI, 05/21/2017, BULLET FRAGMENTS FROM EIGHT INTERCOSSTAL SPACE.

Government Exhibit 51 253
Clear plastic bag with red strip across top of it, containing metal fragment, two yellow envelopes and white folded paper. White stickers on small yellow envelope - MEC#17-1353, GARCIA MUNOZ, AMMERLI, 05/21/2017, METAL FRAGMENTS FROM LEFT SIDE OF TORSO.

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Clear plastic bag with red strip across top of it, containing bullet fragment, two yellow envelopes, small gauze pad. White stickers on small yellow envelope - MEC#17-1353, GARCIA MUNOZ, AMMERLI, 05/21/2017, BULLET FRAGMENT FROM NECK.

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Clear plastic bag with strip across it, containing silver damaged projectile, smaller clear plastic bag, two yellow envelopes. On one of the envelopes, white stickers adhered to it - MEC#17-1353 GARCIA MUNOZ-AMMERLI 05/21/2017 BULLET FROM HEAD, Decedent's Name Ammerli Garcia Munoz. Item Bullet, Description, bullet from head.	
Government Exhibit 73	204
Physical - black handgun, with Evidence Identification Label attached to gun. Label - Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, Evidence Identification Label, Case Number 776075-17-0064, Action-Seized Judicially, Cust Date 1/14/2020, Exh # 067, Description of Property, Firearm: Handgun, Mnf: Ruger, Type: Revolver, Model: LCR Cal. 38, SN; 540-41049, Location Recovered From - Tidwell, Arrest Location, Brentwood, TN 37027, Person Recovered From: Tidwell, Kevin	
Government Exhibit 150	140
Clear plastic bag with red strip across top - containing smaller plastic bag with unknown substance in it. White label on smaller plastic bag - Case Number: 776075-17-0064, Action: Retained for Evidence, Cust Date: 5/28/202, Exh # 235, Description of Property: Narcotics: Cocaine, Qty: 67.1, Mea: grams, plastic bag containing cocaine. Sealed by MNPd. Weighed in packaging by ATF. Location Recovered From: Location of SANDOVAL, Drug SW, 3055 Lebanon Pk., Nashville, TN 3721-4.	

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Government Exhibit 151	140
Clear plastic bag with red strip across top - containing 3 small plastic bags, each containing white powdery substance. White sticker in outside plastic bag - DR25606151, Incident: 20180479018, Category: Drugs, Suspect: Unknown, Description: Drugs, Plastic bag containing white powder cocaine. Box 19N, Bar Code: ZCW1X59N0RIDB7.	
Government Exhibit 152	140
Clear plastic bag with red strip across top - containing 3 small plastic bags, each containing white powdery substance. White sticker on outside plastic bag - DR25611635, Incident: 20180531112, Category: Drugs, Suspect: Unknown, Box 30N, Description: Drug (3) individual bags containing a white substance (cocaine). Bar Code - ZCV4F59N0RJ0F1.	
Government Exhibit 200	46
Color image of undercarriage of vehicle on its side in ravine. Broken tree limbs in forefront of image. (1 page)	
Government Exhibit 201	46
Color image of vehicle on its side in ravine. Limbs and vines in forefront of vehicle in image. (1 page)	
Government Exhibit 202	46
Color image of vehicle on its side in ravine. Limbs and vines in forefront of vehicle in image. (1 page)	
Government Exhibit 203	46
Color image of close-up view of vehicle (smoking) on its side in a ravine. Blue cables located on hill into ravine. (1 page)	

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Government Exhibit 204	46
Color image of vehicle (smoking) on its side in a ravine. Fire department employees on right side of image. (1 page)	
Government Exhibit 205	46
Color image of vehicle (smoking) on its side in a ravine, fire department employee to left of vehicle. (1 page)	
Government Exhibit 350	230
Color image of report - Office of the Medical Examiner, Center for Forensic Medicine, Nashville, Tennessee, Davidson County Medical Examiner, Feng Li M.D., J.D., Ph.D., Judicial District Number: 20, District Attorney: Honorable Glenn Funk, State Number 16-19-3876, Case Number: MEC16-1824, Name fo Decedent - Liliana Elizabeth Rodriguez, Age: 18 years, Race: White, Sex: Female, Date of Death, 07/31/2016 5:42 AM, Type of Death: Suspected Homicide (1 page)	
Government Exhibit 351	231
Color image of black handwriting and yellow ID bracelet, both positioned on top of white material. On handwriting on white material - "Rodriguez" "MEC16-1824". On yellow ID bracelet - "MEC#16-1824" "Rodriguez, Liliana". (1 page)	
Government Exhibit 353	231
Color image of a yellow identification band, an orange and white identification band, and a small measuring tool, all resting on human forearm. Yellow ID band - "MEC #16-1824" "Rodriguez, Liliana". On orange and white ID band - "Liliana Rodriguez" "ID Tag", "xxxxxx126176" above bar code. On measuring tool - "MEC# 16-1824". (1 page)	

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2	Government Exhibit 355 231
3	Color image of bruising area around
4	small hole on human skin. Measuring
5	tool to right of wound. (1 page)
6	
7	Government Exhibit 358 231
8	Color image of circular wound on human
9	skin. L scale to left and bottom of
10	wound. (1 page)
11	
12	Government Exhibit 461 153
13	Physical DVD in white sleeve other than
14	clear plastic middle. Printed on DVD
15	"U.S. v. Ochoa-Martinez, et al."
16	"3:18-cr-00293" "Government's Trial
17	Exhibit 461" "Surveillance video clip".
18	Hand-written letters "JSDA".
19	
20	Government Exhibit 462 153
21	Physical DVD in white sleeve other than
22	clear plastic middle. Printed on DVD
23	"U.S. v. Ochoa-Martinez, et al."
24	"3:18-cr-00293" "Government's Trial
25	Exhibit 462" "Surveillance video clip".
	Hand-written letters "JSDP".
	Government Exhibit 463 153
	Physical DVD in white sleeve other than
	clear plastic middle. Printed on DVD
	"U.S. v. Ochoa-Martinez, et al."
	"3:18-cr-00293" "Government's Trial
	Exhibit 463" "Surveillance video clip".
	Hand-written letters "JSDP".
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	Physical DVD in white sleeve other than
	clear plastic middle. Printed on DVD
	"U.S. v. Ochoa-Martinez, et al."
	"3:18-cr-00293" "Government's Trial
	Exhibit 464" "Surveillance video clip".
	Hand-written letters "JSDP".

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2	Government Exhibit 465 153
3	Physical DVD in white sleeve other than
4	clear plastic middle. Printed on DVD
5	"U.S. v. Ochoa-Martinez, et al."
6	"3:18-cr-00293" "Government's Trial
7	Exhibit 465" "Surveillance video clip".
8	Hand-written letters "JSDP".
9	
10	Government Exhibit 466 153
11	Physical DVD in white sleeve other than
12	clear plastic middle. Printed on DVD
13	"U.S. v. Ochoa-Martinez, et al."
14	"3:18-cr-00293" "Government's Trial
15	Exhibit 466" "Surveillance video clip".
16	Hand-written letters "JSDP".
17	
18	Government Exhibit 467 153
19	Physical DVD in white sleeve other than
20	clear plastic middle. Printed on DVD
21	"U.S. v. Ochoa-Martinez, et al."
22	"3:18-cr-00293" "Government's Trial
23	Exhibit 467" "Surveillance video clip".
24	Hand-written letters "JSDP".
25	
26	Government Exhibit 468 153
27	Physical DVD in white sleeve other than
28	clear plastic middle. Printed on DVD
29	"U.S. v. Ochoa-Martinez, et al."
30	"3:18-cr-00293" "Government's Trial
31	Exhibit 468" "Surveillance video clip".
32	Hand-written letters "JSDP".
33	
34	Government Exhibit 554 240
35	Color image of Report of Investigation
36	by County Medical Examiner, Name of
37	Decedent: Ammerli Josue Garcia Munoz,
38	Age-25 years, Race-White, Sex-Male,
39	Date of Death-05/21/2017 12:45 AM, Type
40	of Death-Suspected Homicide. (13 pages)
41	
42	Government Exhibit 555 242
43	Color image of handwriting in black ink
44	on a white material, along with a small
45	measuring tool also positioned on the
46	white material. Handwriting -
47	"Ammerli, Garcia" "17-1353". On small
48	measuring tool - "MEC#17-1353". (1
49	page)

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Color image of prone x-ray of full body. Multiple white marks on upper body of x-ray. (1 page)	
Government Exhibit 568	273
Physical DVD in white sleeve other than clear plastic middle. Printed on DVD "U.S. v. Ochoa-Martinez, et al." "3:18-cr-00293" "Government's Trial Exhibit 568" "Surveillance video clip". Hand-written letters "KM".	
Government Exhibit 569	273
Physical DVD in white sleeve other than clear plastic middle. Printed on DVD "U.S. v. Ochoa-Martinez, et al." "3:18-cr-00293" "Government's Trial Exhibit 569" "Surveillance video clip". Hand-written letters "KM".	
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Physical DVD in white sleeve other than clear plastic middle. Printed on DVD "U.S. v. Ochoa-Martinez, et al." "3:18-cr-00293" "Government's Trial Exhibit 570" "Surveillance video clip". Hand-written letters "KM".	
Government Exhibit 571	273
Physical DVD in white sleeve other than clear plastic middle. Printed on DVD "U.S. v. Ochoa-Martinez, et al." "3:18-cr-00293" "Government's Trial Exhibit 571" "Surveillance video clip". Hand-written letters "KM".	

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2	Government Exhibit 572 280
3	Color image of two vehicles (a
4	Chevrolet Sedan and a 4-door truck -
5	truck has sunroof), parked in parking
6	lot with one parking space separating
7	them. Individual in driver's seat of
8	truck. Short yellow poles in front of
9	vehicles and yellow curb in front of
10	empty parking space. Individual with
11	dark-colored hat, white t-shirt and
12	blue pants outside of the passenger
13	side of the truck. (1 page)
14	
15	Government Exhibit 573 185
16	Color image of two vehicles (a
17	Chevrolet Sedan and a 4-door truck -
18	truck has sunroof), parked in parking
19	lot with one parking space separating
20	them. Individual in driver's seat of
21	truck. Short yellow poles in front of
22	vehicles and yellow curb in front of
23	empty parking space. Individual with
24	dark-colored hat, white t-shirt and
25	blue pants in front of yellow poles in
	front of truck. (1 page)
	Government Exhibit 574 280
	Color image of male individual just
	inside of store in blue hat, white
	t-shirt, blue pants and white tennis
	shoes. Two small children to right of
	male individual. Individual male in
	blue and white striped short-sleeved
	shirt to left of image. Date stamp at
	top left of image "05-27-2017 St
	22:20:11", Stamp at bottom right of
	image "Front Door". (1 page)
	Government Exhibit 575 280
	Color image of male individual on one
	side of counter in grocery store,
	wearing blue hat and white t-shirt
	with tattoos on arms. Male individual
	on opposite side of counter with black
	short-sleeved t-shirt on. (1 page)

1		Page
2	Government Exhibit 576	280
3	Color image of male individual on one	
4	side of counter in grocery store,	
5	wearing blue hat and white t-shirt	
6	with tattoos on arms. Male individual	
7	on opposite side of counter with black	
8	short-sleeved t-shirt on. (1 page)	
9		
10	Government Exhibit 577	280
11	Color image of male individual on one	
12	side of counter in grocery store,	
13	wearing blue hat and white t-shirt	
14	with tattoos on arms. Male individual	
15	on opposite side of counter with black	
16	short-sleeved t-shirt on. (1 page)	
17		
18	Government Exhibit 578	280
19	Color image of a 4-door sedan vehicle	
20	and a truck in a parking lot. Male	
21	individual standing outside of	
22	passenger side door of sedan. (1 page)	
23		
24	Government Exhibit 579	280
25	Color image of inside of a store.	
26	Shopping carts to left of brown and	
27	blue floor mats. Male individual with	
28	white t-shirt and blue ball cap exiting	
29	store. Male individual with khaki	
30	shorts and dark short-sleeved shirt	
31	entering store. (1 page)	
32		
33	Government Exhibit 580	280
34	Color image of inside of a store.	
35	Shopping carts to left of brown and	
36	blue floor mats. Male individual with	
37	white t-shirt and blue ball cap exiting	
38	store. Male individual with khaki	
39	shorts and dark short-sleeved shirt	
40	entering store. (1 page)	
41		
42	Government Exhibit 581	280
43	Color image of inside of a store.	
44	Shopping carts to left of brown and	
45	blue floor mats. Male individual with	
46	white t-shirt and blue ball cap exiting	
47	store. Male individual with khaki	
48	shorts and dark short-sleeved shirt	
49	entering store. (1 page)	

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2	Government Exhibit 582 280
3	Color image of inside of a store.
4	Shopping carts to left of brown and
5	blue floor mats. Male individual with
6	white t-shirt and blue ball cap exiting
7	store turned back towards male
8	individual with khaki shorts and dark
9	short-sleeved shirt inside store. (1
10	page)
11	
12	Government Exhibit 583 280
13	Color image of inside of a store.
14	Shopping carts to left of brown and
15	blue floor mats. Male individual with
16	white t-shirt and blue ball cap exiting
17	store turned back towards male
18	individual with khaki shorts and dark
19	short-sleeved shirt inside store. (1
20	page)
21	
22	Government Exhibit 584 280
23	Color image of inside of a store.
24	Shopping carts to left of brown and
25	blue floor mats. Male individual with
	white t-shirt and blue ball cap outside
	of store turned back towards male
	individual with khaki shorts and dark
	short-sleeved shirt inside store. (1
	page)
	Government Exhibit 585 280
	olor image of a 4-door sedan vehicle
	and a truck in a parking lot. (1 page)
	Government Exhibit 586 280
	Color image of a 4-door sedan vehicle
	parked in parking lot and a 4-door
	truck at an angle in parking lot. (1
	page)
	Government Exhibit 587 280
	Color image of parking lot and truck on
	road with illuminated taillights (1
	page)

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Government Exhibit 588	280
Color image of 4-door sedan vehicle in parking lot. Individual with khaki shorts and dark short-sleeved shirt standing in parking lot. (1 page)	
Government Exhibit 589	280
Color image of 4-door sedan vehicle in parking lot. Individual with khaki shorts and dark short-sleeved shirt standing in parking lot. Individual with gray sweatshirt in front of sedan. (1 page)	
Government Exhibit 590	280
Color image of 4-door sedan vehicle in parking lot with male individual in dark short-sleeved shirt at passenger side door of vehicle. (1 page)	
Government Exhibit 591	280
Color image of parking lot. (1 page)	
Government Exhibit 592	280
Color image of parking lot with 4-door truck to left of parking lot. (1 page)	
Government Exhibit 593	280
Color image of parking lot with 4-door truck on road. Male individual wearing dark-colored clothing in parking lot (1 page)	
Government Exhibit 744	202
Physical DVD in white sleeve other than clear plastic middle. Printed on DVD "U.S. v. Ochoa-Martinez, et al." "3:18-cr-00293" "Government's Trial Exhibit 744" "Dashcam video clip". Hand-written letters "TAB".	

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1	
2	Government Exhibit 745 208
3	Color image of male individual, with
4	tattoos on right arm and hand and neck
5	and face, wearing black t-shirt, blue
6	denim jeans and white tennis shoes,
7	lying on medical stretcher in
8	ambulance. Male individual to right of
9	stretcher wearing a blue glove, and
10	blue short-sleeved shirt with "EMS"
11	"Paramedic" stitched on shirt. (1
12	page)
13	
14	Government Exhibit 1239 263
15	Color image of aerial map - Google Maps
16	- 931 Richards Road. (1 page)
17	
18	Government Exhibit 1243 264
19	Color image of aerial map - Google Maps
20	- 937 Richards Road. (1 page)
21	
22	Government Exhibit 1246 150
23	Color image of aerial map - Google Maps
24	-
25	https://www.google.com/maps/@36.1274729
	, -86.7107026.243m/data=!3m1!1e3.
	Murfreesboro Pike. Small yellow square
	outlined in black, bottom right of
	image, Government Exhibit 1246,
	3:18-cr-00293 (1 page)
	Government Exhibit 1282 100
	Color image of headshot of male
	individual with dark-colored hair,
	wearing a gray hoodie. (1 page)
	Government Exhibit 1288 173
	Color image of male individual
	standing, wearing white and blue
	striped short-sleeved shir and blue
	denim jeans, also wearing a watch and
	holding a phone. Blurred out visual of
	individual to bottom left of image. (1
	page)

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Government Exhibit 1332	118
Physical clear plastic bag with red strip across top, containing smaller plastic bag and 6 brass-colored fired cartridge casings. Writing on smaller plastic bag - Agency: MNPD, Case # 2017-0222288, Description of Contents: 9MM casing x5, .45 casing x1.	
Government Exhibit 1336	153
Physical DVD in white sleeve other than clear plastic middle. Printed on DVD "Gov. Trial Exhibit 1336" "U.S. v. Ochoa-Martinez, et al." "3:18-cr-00293". Hand-written letters "JSDP".	
Government Exhibit 1337	50
Stipulation - regarding substance in Exhibit 10 being 49.92 grams of cocaine, a Schedule II controlled substance.	
Government Exhibit 1338	144
STIPULATION: Exhibits 150, 151 and 152 - the exhibits are determined to contain cocaine, a Schedule II controlled substance. (2 pages)	
Government Exhibit 1339	206
STIPULATION: Ruger Model LCR Caliber .38 Special +P revolver, serial number 540-41049 is a firearm as defined under 18 U.S.C. § 921(a)(3) and was manufactured outside the State of Tennessee and was transported across state lines.	
Government Exhibit 1340	205
STIPULATION: (1) prior to June 1, 2017, Kevin Tidwell was convicted of a crime punishable by imprisonment for more than one year, and (2) prior to June 1, 2017, Kevin Tidwell knew he had been convicted of a crime punishable by imprisonment for more than one year.	

* * *

The above-styled cause came on to be heard at 8:37 a.m. on April 18, 2023, before the Honorable Eli J. Richardson, District Judge, when the following proceedings were had, to-wit:

THE COURT: All right. I had noted that we'd be coming in here to further discuss jury instructions as a, you know, preliminary matter and see what the parties wanted to do in terms of suggesting any changes and wanted to continue that discussion.

I'm thinking -- and again, I'll go with the page numbers as marked by the clerk's office pursuant to ECF procedures rather than the page numbers assigned by the parties. Page 63 is a part entitled Count 1 Racketeering Activities Alleged in the Indictment, and we will start there.

All right. For the record, it looks like all counsel for every party that remains at trial is here. The -- one moment.

I think count -- I think that there -- you know, this is another example where the word "would" is used, and counsel might want to be intentional about what they mean.

The indictment alleges that each defendant agreed that a conspirator, which may include the defendant himself,

1 would commit at least two acts of racketeering. See, that
2 might be an example where the word "would" is appropriate.
3 There are other contexts where the word "would" is used and
4 may be confusing to the jury, so I just suggest counsel
5 think about that when they walk back through this.

6 If we turn to page 64, if we look at the top,
7 here's probably another example of that. In this case, the
8 indictment alleges acts involving a murder in violation of
9 the laws of the state of Tennessee as part of the pattern of
10 racketeering activity.

11 That's another example. There, there's no
12 discussion about a pattern of racketeering that would have
13 occurred. It's stated as a pattern of racketeering that --
14 the way that sentence is written, we're talking about a
15 pattern of racketeering activity that did occur. And it's
16 just, I think, another example of, you know, the messaging
17 to the jury, to what extent are they asking about what the
18 alleged coconspirators agreed to and to what extent are they
19 asking what actually happened.

20 So a little additional thought on that. If
21 counsel would take a look at that and see if they can
22 promote additional clarity on that point.

23 Then later on that page, first-degree murder is a
24 premeditated and intentional killing of another. To prove
25 first-degree murder under Tennessee law -- now, look at the

1 next word, "the government." I'm wondering if that's right
2 because the way it's written, the government, in our case
3 refers to the United States, and I wonder if the message
4 here, the use of that term there is indicating to the jury
5 that the government has the burden in order to convict the
6 defendants on Count 2, the United States Government, the
7 plaintiff in this case, has the burden of showing each of
8 these beyond a reasonable doubt.

9 I don't think that's the point here. I think the
10 point of this instruction is to tell the jurors what the
11 nature is of this supposed racketeering activity. And I
12 think the point is, look, for you to find that the
13 defendants agreed that first-degree murder under Tennessee
14 law was committed, then this is what they must have agreed
15 to, rather than saying that conviction on Count 1 requires
16 the United States Government to prove each of these
17 elements. So I wonder if the way to fix that is to just
18 change "the government" to "state prosecutors." Does that
19 make sense? Do you see what I'm saying there?

20 **MR. SAFEEULLAH:** Yeah, I see what you're saying,
21 Your Honor, but could you rephrase that again or say it
22 again?

23 **THE COURT:** So if we're in the middle there of
24 page 64 where it says: First-degree murder is a
25 premeditated and intentional killing of another. To prove

1 first-degree murder under Tennessee law, comma, something
2 like "state prosecutors" or "the state must prove," because
3 this is a statement about what constitutes first-degree
4 murder under Tennessee law.

5 So if we're going to frame this in terms of what
6 must be proven, I think replacing the government with state
7 prosecutors makes sense. I think the sentence could be
8 written in another way. I'm just concerned about the way it
9 currently is written. It makes it sound like it is not
10 possible to have a conviction on Count 1 unless these
11 elements are met.

12 **MR. HOFF:** Your Honor?

13 **THE COURT:** Yeah.

14 **MR. HOFF:** If I may, I think that maybe including
15 "state prosecutors" might be a little confusing. What if it
16 just said, "To prove first-degree murder under Tennessee
17 law, each of the following elements must be proven beyond a
18 reasonable doubt"?

19 **THE COURT:** I was -- I'm actually in favor of
20 that. I had thought the same thing, and the only reason I
21 said it the way I was, it sort of kept your sentence
22 structure more intact, but I think that your reformulation
23 actually is preferable. And I think that's the point you're
24 making. You're describing what the elements are rather than
25 who has to prove it. And what they need to know are what

1 are the elements and not who has to prove what. So just a
2 suggestion.

3 And obviously, I'm happy -- anyone wants to raise
4 their hand, we don't have to decide anything now because
5 these are suggestions for a revised version. But I'm happy
6 to hear whatever anyone has to say. No one has to make any
7 objections or anything because it would be premature. This
8 is just a discussion, so -- but anyone wants to discuss
9 anything, let me know.

10 All right. Page 68. And I'll just make one more
11 reminder: I'm talking about the clerk's office pagination.

12 If we see where it says: "It is no defense to
13 prosecution for criminal attempt that the offense attempted
14 was actually committed." And I was thinking about adding --
15 that's an accurate statement, but it might confuse the jury
16 because they actually could think, well, gee, did someone
17 leave out the word "not"? This is an accurate statement,
18 like, in other words -- but you could see the jury saying
19 well, yeah, you can attempt something and then commit
20 something. This is an obvious statement. It's a true
21 statement. But it might strike the jurors as obvious, why
22 are they telling -- why is the Judge telling us this?

23 It's an important point, but they may wonder, why
24 is the Judge telling us this? Did he really mean to say
25 it's not a defense that the offense attempted was not

1 actually committed?

2 So I propose adding the following statement:

3 "That is, a criminal attempt does not cease to be a criminal
4 attempt if and when the attempt proves successful."

5 See the point I'm making there? To say -- you
6 figure out whether it's an attempt, and if it's an attempt,
7 it remains an attempt whether successful or not, is kind of
8 my point. So think about that. Something like this: "That
9 is, a criminal attempt does not cease to be a criminal
10 attempt if and when the attempt proves successful,"
11 something like that.

12 Page 69, in the middle of the page. Acting --
13 here's the thing in subpart A. There's this phrase:

14 "Acting with the culpability required for the offense, the
15 person causes or aids an innocent or irresponsible person."

16 Now, I think this is a use of the term someone
17 not responsible, not liable for commission of the offense.
18 I think that's what, you know, learned counsel have in mind.

19 The layperson is going to be, what,
20 irresponsible, like if you got like some teenager, you know,
21 that, you know, acts recklessly and doesn't behave
22 themselves, that's an irresponsible person.

23 So think about -- you know, I mean, if that's the
24 word you want to use, I don't think I'd oppose it. But a
25 layperson, irresponsible person is an immature person that

1 doesn't, you know, handle their affairs in a mature manner
2 or something like that. You know what I mean? That's what
3 it's going to mean to a layperson.

4 All right. Bottom of page 70. This is another
5 case where I'm just concerned that the instructions make it
6 sound like the jury is going to be asked to return a verdict
7 as to whether a state crime was committed.

8 "Before you find a person criminally responsible
9 for said offense committed by the conduct of another, you
10 must find that all the essential elements of said offense
11 have been proven by the government beyond a reasonable
12 doubt."

13 And again, the notion that the jurors may need to
14 determine whether the conspirators anticipated the
15 commission of these offenses, that may need to be -- go into
16 their verdict on Count 1. But this makes it sound like
17 they're going to be asked to return a verdict on, quote,
18 said offense committed by the conduct of another. And
19 they're not going to be asked to do that.

20 So think about rephrasing that the same way I
21 suggested the rephrasing earlier as to which Mr. Hoff had
22 ultimately suggested some helpful language.

23 Page 72. Kidnapping Under Tennessee law. Same
24 issue, right? "For you to find a person guilty of this
25 offense," you're not actually asking the jury -- the

1 government is not actually asking the jury to find anyone
2 guilty of the offense of kidnapping under Tennessee law. It
3 is asking them to consider whether the conspirators
4 contemplated this, but that's different. So the same issue
5 there.

6 Page 75. Robbery. Same exact concern. It says,
7 "For you to find a person guilty of this offense," meaning
8 robbery under Tennessee law, they're not going to be asked
9 to determine whether any defendant is guilty of this
10 offense, even though they are being asked to consider
11 whether the conspirators contemplated commission of that
12 offense.

13 All right. Bottom of page 76. Yet another
14 concern along the same lines. And here is where there are
15 definitions given with respect to the elements of offense of
16 robbery under Tennessee law. Bottom of page 76, there's a
17 reference to "The jury would be justified in returning a
18 verdict of guilty."

19 You know, the verdict that we're talking about
20 here is a verdict on Count 1 and not on robbery under
21 Tennessee law. And I'm just concerned that they'll read
22 that to make it sound like, you know, the decision about
23 robbery under Tennessee law is dispositive of their verdict
24 on Count 1. So in other words, there's a confusion there
25 for the jury between this statement, which is about a

1 verdict of guilty in a hypothetical case charging robbery
2 under Tennessee law versus a verdict of guilty on Count 1.

3 All right. Page 79. Extortion Under Tennessee
4 Law. Here is a similar concern to what I started out with
5 this morning. "In order for you to find a person guilty of
6 extortion under Tennessee law," well, the -- in a
7 hypothetical charge of extortion under Tennessee law, a jury
8 might be asked whether to find a person guilty of extortion
9 under Tennessee law. This jury is not going to be asked to
10 make that determination.

11 And then it says, "The government must prove each
12 of the following elements beyond a reasonable doubt,"
13 another area where I recommend rephrasing consistent with my
14 earlier comments this morning.

15 Page 81. Offenses Involving Dealing in a
16 Controlled -- in Controlled Substances. Really, like the
17 first sentence there where it says, "It is further alleged
18 in Count 1 that acts involving dealing in controlled
19 substances, specifically cocaine and marijuana, is a type of
20 racketeering activity that the defendants agreed would be
21 committed as part of the racketeering enterprise," that's
22 great language. Might want to use it elsewhere if you're
23 doing revisions, because that is really what we're talking
24 about.

25 We're not talking about whether dealing in

1 controlled substances actually occurred. The verdict on
2 Count 1 is not a verdict as -- on Count 1 is not a verdict
3 about whether there was dealing in controlled substances.
4 It's a verdict that they're being asked to return based on
5 the types of racketeering that they find or don't find the
6 defendants agreed would be committed as part of the
7 racketeering enterprise. So that language is great.

8 Now, with respect to Count 1, we have the same
9 issue below. Possession with intent to distribute. If you
10 see that part there on page 81: "To establish the crime of
11 unlawful possession with the intent to distribute controlled
12 substances, the government must prove both of the following
13 elements," same thing. The government doesn't need to
14 establish that this crime was committed, and the jury is not
15 going to be asked to find, with respect to Count 1, whether
16 the government proved those things.

17 Instead, of course, the jury is being asked to
18 find whether this is a type of racketeering that the
19 defendants agreed would be committed.

20 You know, I made comments the other day about the
21 notion of "would be committed." To the extent the
22 government's theory is -- you know, really hangs on whether
23 these things were actually committed, as I think I indicated
24 the other day, is it may choose to just cut out all this
25 language about "would be committed" and go with language

1 about what was actually committed.

2 But that's the government's choice. They're
3 allowed to frame these instructions solely in terms of what
4 the alleged coconspirators contemplated would be done versus
5 what was actually done. But I think that the government
6 wants to be sort of conscious in its choice about how to put
7 it to the jury so that we can all promote maximum clarity
8 for the jury.

9 The top of page 82 says: "It is enough that the
10 defendant knew that it was some kind of controlled
11 substance." Here's a question I have for the government.
12 And I haven't really had this come up in a controlled
13 substance case I've handled for a while, so I'm -- I don't
14 have a ready case law at hand on this.

15 But here's the issue: The phrasing, "It is
16 enough that the defendant knew that it was some kind of
17 controlled substance," should we clarify for the jury
18 whether this means the defendant must know that it was some
19 kind of substance that, under the law, is controlled,
20 whether the defendant knows that it's a substance that's
21 controlled under the law or not, or does the defendant have
22 to know that it's a substance that is controlled? Does it
23 have to know that there's controlling of this substance
24 under the law? Do you see what I'm saying?

25 So, in other words, does the defendant have to

1 know that the substance is one that, as it turns out, is on
2 the list of controlled substance, or does the defendant have
3 to know it's on the list of controlled substances? And, you
4 know, I think the answer is they just have to know it's a
5 substance that happens -- as it turns out, happens to be on
6 the list of controlled substances. They don't have to know
7 that it's on the list of controlled substances.

8 Does that sound right to you, Mr. Safeeullah?
9 Well, I'm not sure, though, now that I say that.

10 **MR. SAFEEULLAH:** Yeah, Your Honor, I'm not sure
11 either, and I would hate to misstate something right now. I
12 would have to look at that.

13 **THE COURT:** And it occurs to me that that just
14 hasn't come up in a long time. It's an interesting
15 question. I do think -- do you see the ambiguity I'm
16 talking about there --

17 **MR. SAFEEULLAH:** Yes, Your Honor.

18 **THE COURT:** -- about what they need to find?

19 So if we could clarify that, I think that would
20 be helpful. Thank you.

21 Let's look at the language there below about the
22 phrase "intended to distribute." The sentence here is
23 written: "The term distribute includes the actual
24 constructive or attempted transfer of a controlled
25 substance."

1 All right. Then let's look at page 84. We again
2 define "distribute," but define it slightly differently. At
3 the bottom of page 84, there is this language: "I will add
4 here that the term 'distribute' means the defendant
5 delivered or transferred a controlled substance. The term
6 'distribute' includes the actual constructive or attempted
7 transfer of a controlled substance. The term 'distribute'
8 also includes the sale of a controlled substance."

9 So here's the thing. There are three sentences
10 there that define the term "distribute." Only the middle
11 sentence there is included in the definition on page 82.

12 So what I might suggest is having one definition
13 of "distribute." Don't sort of redefine it and certainly
14 don't redefine it differently. So maybe the thing to do is
15 put everything you want up on page 82 about what's included
16 in this definition of distribute, and then when you get to
17 page 84, you know, you could refer back, just refer back to
18 the prior definition.

19 So it's just a suggestion.

20 All right. This is a point that maybe is more
21 important to judges and criminal practitioners, but I think
22 it's -- might as well make the point just because it's --
23 make the statement of the law more accurate.

24 Page 85, two-thirds of the way down, there is
25 this statement: "Unlike conspiracy under Tennessee law,

1 conspiracy under federal law does not require proof of a
2 commission of an overt act in furtherance of the
3 conspiracy."

4 I would suggest saying this -- how about this:
5 "A drug conspiracy or a drug trafficking conspiracy under
6 federal law. A drug conspiracy or a drug trafficking
7 conspiracy under federal law does not require proof,"
8 because the statement as issued is actually inaccurate. 371
9 conspiracies under federal law do require commission of an
10 overt act. But the kind of conspiracy we're talking about
11 here, drug trafficking conspiracy, it is true, does not
12 require proof of the commission of an overt act.

13 And I realize that, you know, that distinction is
14 not going to be apparent to the jurors in any event, but
15 might as well -- might as well make the qualification to
16 make the statement accurate.

17 Page 87, we have that same language again, that I
18 asked the government to think about clarifying. And when I
19 say the government, of course, I'm not necessarily
20 suggesting that only the government drives the train.
21 Obviously, defendants can have just as much input, and I
22 realize that. But for short, I'm saying the government
23 because this would not be the first time the government
24 drives the train on a draft and then shares it with the
25 defendant. And so that's why I say the government.

1 We have that language: "It is enough that the
2 defendant knew that it was some kind of controlled
3 substance." Let's take a look at that again.

4 All right. We are just a little past 9:00. I'll
5 make one more remark. Okay. The jurors are coming up, so
6 we have just a minute or two.

7 Witness Tampering, top of page 89. I commend
8 that language there in the first paragraph again. It's
9 about what is a type of racketeering activity that the
10 defendants agreed would be committed as part of the
11 racketeering conspiracy? Is witness tampering such a type
12 of racketeering activity? That is the question.

13 Just a thought. And I wouldn't insist on this.
14 I think when you're dealing with, you know, a very lengthy
15 complicated set of instructions for laypersons, every time
16 you're able to use one phrase over and over to convey the
17 same concept, it may help the jurors follow along and not
18 wonder whether there aren't two different concepts that
19 they're responsible for.

20 So, for example: "There are several ways that a
21 defendant may commit this offense." Then we have a No. 1,
22 right? And then --

23 (Discussion off the record.)

24 **THE COURT:** All right. We'll come grab them in
25 just a second. Thank you, sir.

1 Then if you look at what is enumerated as 2, the
2 phrasing is changed. So in other words, we start out by
3 using the concept of a way in which the defendant may commit
4 this offense. Then, later on, we switch to the notion of a
5 defendant being convicted of this offense. Why not just
6 keep speaking in terms of how a defendant commits the
7 offense rather than switch from talking about how a
8 defendant may commit this offense to how the defendant could
9 be convicted of this offense?

10 The other final thought I have, and then we'll
11 bring in the jury on this: Similar concept to try and keep
12 the concepts consistent and as easy as possible for jurors
13 to follow. No. 1, we say: "The first way is if a defendant
14 killed or attempted to kill a witness in order to prevent
15 the witness from providing information to a federal law
16 enforcement officer."

17 Well, the sentence begins talking about a way of
18 doing something. So why not write the rest of the sentence
19 in terms of a way of doing something? The first way is by
20 killing or attempting to kill a witness. That's the way,
21 rather than saying we're going to tell you what the way is
22 and then we're going to use a subjective tense. The way is
23 by killing or attempting to kill. That's the first way you
24 do it.

25 So that's a shorter concept, and it keeps out the

1 subjunctive notion where you get into ifs and so forth. The
2 first way is by killing or attempting to kill. That way,
3 you keep the language consistent. You start out talking --
4 saying you're going to tell them what a way is, and then
5 your verbiage is framed in terms of the way of doing it.
6 Just a thought there.

7 Now, I will say this: We -- we're up to page 90,
8 and, you know, I'll have some more to say. I think that
9 it's just -- you know, obviously this is a very lengthy set
10 of instructions. Counsel is, I think, you know, free to
11 suggest whatever they want and not go along with any of the
12 Court's suggestions. Obviously, whatever I get, I'm going
13 to look at and make my own sort of determinations.

14 I do think accounting for some of these concerns
15 would be in the benefit of all parties. And I do think some
16 of the concerns are going to be necessary for me -- some of
17 the concerns would have to be addressed for me to be
18 convinced that it's appropriate to instruct the jury because
19 without some of these changes, I'm going to think that it's
20 not going to quite be accurate and therefore shouldn't be
21 given to the jury.

22 There is obviously a long way to go on these, but
23 I think the -- I think the frequency of proposed changes is
24 going to slow down. And these are complex jury
25 instructions. The part towards the end is obviously a

1 little more pro forma in terms of the language, so
2 hopefully, we can accelerate this discussion.

3 But that will need to do for now. Anyone have
4 any questions about sort of the thrust of some of my
5 remarks?

6 All right. I don't see any hands.

7 The other thing is this: Does anyone -- and
8 you're allowed to be candid with me. We're all trying to do
9 the right thing, right, by having the jury understand these
10 instructions in a complex case as best as is possible for
11 laypersons.

12 Is anyone of the opinion that most of my remarks,
13 I'm making a mountain out of a molehill? Anyone feel that
14 way? Okay. You really -- and I'm not being -- really --
15 you could tell me and we'd have the discussion, but I really
16 feel like we want to spoon-feed this as best as possible to
17 the jurors because, in particular regarding Count 1, having
18 litigated primarily civil RICO, I'm going to tell you,
19 lawyers get lost all the time on it. You see it all the
20 time. And laypersons ask, in a very significant case that's
21 very important to the government and very important to the
22 defendants, they're going to -- you know, they're going to
23 need all the help they can get in keeping it straight. If
24 we do it right, that's what's going to happen: They're
25 going to understand the law. But probably need a little

1 work to get there.

2 All right. Anything of a preliminary matter
3 before we call in the jurors?

4 **MR. SAFEEULLAH:** Yes, Your Honor. Prior to the
5 start of trial, the government did an evidence review with
6 the defendants. We showed them the evidence, specifically
7 cocaine. We ended up getting stipulations from all four of
8 the defendants that included Luis Colindres. He is since no
9 longer a part of this trial, so we revised the stipulation
10 to remove his name. However, we were in discussions with
11 the defense prior to Your Honor coming on the bench on
12 whether they would sign the stipulations now that his name
13 has been removed.

14 I'm not sure whether they're going to sign the
15 stipulations. I think someone said that they're not going
16 to sign them now. But we plan -- the government planned on
17 introducing one of the stipulations with this next witness
18 to say that the cocaine that was seized was actually cocaine
19 as opposed to having to bring in a chemist or two for all of
20 the cocaine that we have. So, I mean, that was the
21 discussion that we were having as Your Honor came onto the
22 bench.

23 **THE COURT:** All right. Yes, Mr. Ganguli?

24 **MR. GANGULI:** Your Honor, if I could have a
25 moment to speak with Mr. Tidwell, I think we have arrived at

1 that stipulation.

2 **THE COURT:** All right. So it sounds like there
3 was an issue there; you think it's been resolved.

4 **MR. SAFEEULLAH:** But it's for all three of the
5 defendants. They all previously signed the stipulation, and
6 I would just hand it back to them and see whether they want
7 to sign it.

8 **THE COURT:** Okay. All right. That's with just
9 the three names now?

10 **MR. SAFEEULLAH:** That's correct, as opposed to
11 the four.

12 **THE COURT:** All right. Very well. Thank you.
13 (Respite.)

14 **THE COURT:** Mr. Safeeullah, when did you
15 anticipate reading this? In the middle of the testimony,
16 during or before or after?

17 **MR. SAFEEULLAH:** After, at the conclusion of the
18 witness's testimony.

19 **THE COURT:** All right. Very well.

20 **MR. SAFEEULLAH:** But it's just one stipulation to
21 the cocaine that she submitted into the property and not the
22 other two stipulations that involve other cocaine seizures.

23 **THE COURT:** Okay. Just the one cocaine seizure.
24 All right. Very well. Okay.

25 **MR. HOFF:** Your Honor, if I may, do you think

1 we'll be going over the rest of the jury instructions this
2 week?

3 **THE COURT:** Do counsel have a preference? I
4 could -- you know, we could continue it tomorrow. I think
5 if we start at -- I don't see why, if we started at --
6 really started at 8:30, we couldn't be done by 9:05.

7 **MR. HOFF:** Okay. I think that makes sense, Your
8 Honor, just because I do think it's going to take some time
9 to make some edits. Looking at the trial schedule,
10 probably -- it would be better to deal with those sooner
11 rather than later, so . . .

12 **THE COURT:** Yeah. So we have time, but not so
13 much time.

14 **MR. HOFF:** Exactly.

15 **THE COURT:** Yeah, I agree with that. I'm happy
16 to have us do it tomorrow at 8:30. And, you know, I'm
17 committed to getting it done.

18 **MR. HOFF:** I think I'll be in charge of some of
19 the edits, so the sooner we can move through them, I think
20 would be best.

21 **THE COURT:** All right. What about tomorrow at
22 8:30? Does that work for folks?

23 All right. We'll do tomorrow at 8:30, and we'll
24 push through it and, hopefully, give you what you need and
25 have time to make the revisions.

1 Are we about done over there?

2 All right. So tomorrow at 8:30 a.m., we'll
3 continue with the jury instructions.

4 All right. If nothing further, we'll call in the
5 jurors. Thank you.

6 (WHEREUPON, the jury entered the courtroom at
7 9:16 a.m., with matters being heard in open court as
8 follows:)

9 **THE COURT:** All right. Thanks, folks. As
10 always, we appreciate our jurors' continued attendance and
11 attention. Appreciate them being patient in the hallway
12 while we finished up some business. We were certainly here
13 on time ourselves taking care of a little business, went a
14 little bit over. Appreciate your patience.

15 When we left, the government had concluded an
16 examination of its witness, of course, with some
17 cross-examination of Mr. Baca, and now the government may
18 call its next witness.

19 **MR. SAFEEULLAH:** Thank you, Your Honor. The
20 United States calls Jaime Terry.

21 **THE COURT:** All right. Ms. Terry may come
22 forward.

23 (The witness was sworn.)

24 ///

25 ///

* * *

JAIME TERRY,

was called as a witness, and after having been first duly sworn, testified as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. SAFEEULLAH:

Q. Good morning.

A. Good morning.

Q. Will you please state and spell your name for the record.

A. It's Jaime Terry. J-A-I-M-E, T-E-R-R-Y.

Q. And where are you presently employed?

A. With the FBI in Lexington, Kentucky.

Q. And what's your job title?

A. I'm a special agent.

Q. How long have you been a special agent with the FBI?

A. Six years.

Q. What were you doing before you were a special agent with the FBI?

A. I was a police officer with Metro Nashville PD.

Q. And how long were you a police officer in Nashville?

A. Ten years.

Q. So you would have been a police officer in Nashville on March 15th, 2016?

A. Correct.

1 Q. Were you working that day?

2 A. I was.

3 Q. What side of town were you working on that day?

4 A. On the south side of Nashville.

5 Q. And what were you doing on that side of town?

6 A. My -- the unit I was working on was assisting another
7 unit who were conducting search warrants in the area.

8 Q. And were you tasked with going into the residence to
9 conduct the search warrant?

10 A. No. My unit was conducting the perimeter.

11 Q. And was there communications between people who were
12 going into the search warrant to officers who were working
13 on the perimeter?

14 A. Yes, sir.

15 Q. At some point, did you leave the scene where the
16 search warrant was taking place?

17 A. Yes.

18 Q. And why did you leave?

19 A. We'd received information that a vehicle had fled the
20 scene.

21 Q. And based on that information, where did you go or
22 what did you do?

23 A. We went to try to find the vehicle in the area.

24 Q. And what did you see when you got to the place where
25 you parked?

1 A. There was a vehicle that had flipped over into a
2 ravine or a deep creek.

3 Q. And did you get out of your car or did you stay in
4 your car?

5 A. Got out to see if there was any occupants in the
6 vehicle, see if anybody was around the vehicle fleeing,
7 anything like that.

8 Q. Can you look in one of those binders over there to
9 your right-hand side for Exhibits 200 through 205. It
10 should be the first one.

11 A. Okay.

12 Q. Have you looked at each one of those exhibits?

13 A. Yes, sir. Yes.

14 Q. And what's in those photographs that you looked at?

15 A. They're pictures of the vehicle that was flipped over
16 that day.

17 Q. And how do you know that?

18 A. Because I recognize the vehicle.

19 **MR. SAFEEULLAH:** Your Honor, I move to admit into
20 evidence United States Exhibits 200, 201, 202, 203, 204,
21 205. And I request permission to publish them to the jury.

22 **THE COURT:** All right. Absent objection, the
23 following exhibits will be admitted: Government 200, 201,
24 202, 203, 204, 205. They may be published.

25 (Government Exhibits 200 through 205 were marked

1 and admitted into evidence.)

2 **BY MR. SAFEEULLAH:**

3 Q. Let's start with United States Exhibit 205. Can we
4 pull that one up on the screen.

5 Can you tell us what we're looking at in this
6 photograph?

7 A. Yes. This is the vehicle flipped over into the ravine
8 or deep creek. Fire department is on scene. Looks like
9 they're putting out a fire.

10 Q. Can we turn to United States Exhibit 204.

11 What are we looking at this in photograph?

12 A. A different view of the same vehicle. Fire department
13 on scene.

14 Q. Do you know if the car was on fire or not?

15 A. I believe so with the smoke and the fire department
16 being there.

17 Q. Can we turn to United States Exhibit 203.

18 And tell us what we're looking at in that photograph.

19 A. Again, it's another view of the vehicle with smoke
20 coming out.

21 Q. And can we turn to United States Exhibit 202.

22 What are we looking at in this photograph?

23 A. It's a picture of a vehicle again on its side in the
24 ravine.

25 Q. And lastly, can we turn to United States Exhibit 200.

1 Can you tell us what we're looking at in this?

2 A. Another picture, looks like the underside of the
3 vehicle in the ravine.

4 Q. When you arrived at this location, did you see the
5 person or the driver in the car?

6 A. No, there were no occupants in the vehicle.

7 Q. Was the car drivable or was it not drivable?

8 A. No, it was not drivable.

9 Q. What would happen to that car if it was not drivable?

10 A. It would be towed.

11 Q. Do you know if the car was towed that day?

12 A. It was.

13 Q. What did you and the other officers do once you
14 realized that that car had to be towed?

15 A. We conducted an inventory search of the vehicle before
16 it's towed.

17 Q. Was anything significant found during that search?

18 A. Yes.

19 **MR. SAFEEULLAH:** Your Honor, may I approach?

20 **THE COURT:** You may.

21 **BY MR. SAFEEULLAH:**

22 Q. Can you look at United States Exhibits 10 and 11.

23 A. Yes, sir.

24 Q. Do you recognize those two exhibits?

25 A. I do.

1 Q. And what do you recognize them to be?

2 A. 11 is a sunglass case with -- or a glass case with
3 some eyeglasses, and 10 is cocaine packaged in individual
4 Baggies.

5 Q. And were these the substances that were seized on the
6 day that you-all searched this car that turned over that we
7 just looked at?

8 A. They were.

9 **MR. SAFEEULLAH:** Your Honor, I move to admit
10 United States Exhibits 10 and 11 into evidence.

11 **THE COURT:** Absent objection, Government
12 Exhibit 10 and 11 are admitted.

13 (Government Exhibits 10 and 11 were marked and
14 admitted into evidence.)

15 **BY MR. SAFEEULLAH:**

16 Q. Were you the person that submitted these items into
17 evidence or the property room?

18 A. Yes, sir.

19 Q. Did you also request a laboratory test on the cocaine?

20 A. Yes, sir.

21 **MR. SAFEEULLAH:** Your Honor, at this point, the
22 United States would like to read a stipulation into the
23 record.

24 **THE COURT:** All right. You may proceed.

25 **MR. SAFEEULLAH:** "It is hereby stipulated and

1 agreed among the parties that:

2 "On March 15th, 2016, Metro Nashville Police
3 Department officers lawfully seized the controlled
4 substances admitted as United States Exhibit 10. A proper
5 chain of custody was maintained until the controlled
6 substances were submitted to the Metro Nashville Police
7 Department Crime Laboratory for analysis.

8 "The controlled substances admitted as
9 United States Exhibit 10 were tested by forensic chemist
10 Nicole Dowell of the Metro Nashville Police Department Crime
11 Laboratory using appropriate testing procedures.

12 "Ms. Dowell examined United States Exhibit 10 and
13 determined that the substance in this exhibit contained
14 cocaine, a Schedule II controlled substance, with a total
15 gross weight of approximately 49.92 grams.

16 "It is so stipulated."

17 And for the record, this is
18 United States Exhibit 1337, and we would ask that this
19 exhibit be admitted into evidence.

20 **THE COURT:** All right. Any objection to the
21 admission of 1337?

22 Seeing none, then 1337 will be admitted.

23 (Government Exhibit 1337 was marked and admitted
24 into evidence.)

25 **MR. SAFEEULLAH:** Your Honor, I don't have any

1 additional questions for this witness.

2 **THE COURT:** All right. Mr. Ganguli?

3 **MR. GANGULI:** No questions, Your Honor.

4 **THE COURT:** Ms. Hood-Schneider?

5 **MS. HOOD-SCHNEIDER:** No questions.

6 **THE COURT:** And Mr. Bloom?

7 **MR. BLOOM:** No questions, Your Honor.

8 **THE COURT:** All right. Then Agent Terry may step
9 down. Thank you.

10 **THE WITNESS:** Thank you.

11 (The witness stepped down.)

12 **MR. HOFF:** Your Honor, the United States next
13 calls Officer Autumn Manning.

14 **THE COURT:** All right. Officer Manning may come
15 forward.

16 (The witness was sworn.)

17 * * *

18 **AUTUMN MANNING,**
19 **was called as a witness, and after having been first duly**
20 **sworn, testified as follows:**

21 **DIRECT EXAMINATION**

22 **QUESTIONS BY MR. HOFF:**

23 Q. Good morning. Can you please state and spell your
24 name for the record.

25 A. Autumn Manning. A-U-T-U-M-N, then M-A-N-N-I-N-G.

1 Q. And, Officer, where are you currently employed?

2 A. The Metro Nashville Police Department.

3 Q. How long have you been with the Metro Nashville Police
4 Department?

5 A. For nine years.

6 Q. In 2017, what was your assignment?

7 A. I worked patrol for South Precinct.

8 Q. And what was your shift?

9 A. The overnight shift.

10 Q. What hours are the overnight shift?

11 A. It included from, at that timeframe, 10:30 at night
12 until 7:00 in the morning.

13 Q. And what area of Nashville does the South Precinct
14 patrol cover?

15 A. Antioch. Cane Ridge-Antioch area.

16 Q. Were you working on February 18th of 2017?

17 A. Yes.

18 Q. At some point that night, were you called out to 1316
19 Antioch Pike?

20 A. Yes.

21 Q. About what time did you go out there?

22 A. In the early hours of the morning around like -- I
23 believe around 2:00 in the morning.

24 Q. And what is that -- in 2017, in February 2017, what
25 was that location?

1 A. That is a nightclub called Island Vibes.

2 Q. What were you called to that area for?

3 A. For a shots fired at the location.

4 Q. I want to show you United States Exhibit 395. Do you
5 recognize this?

6 A. Yes.

7 Q. And what is that a photograph of?

8 A. That is the photograph of Island Vibes, the nightclub.

9 Q. And that's -- is that where you responded on February
10 the 18th of 2017?

11 A. Yes.

12 Q. Thank you. When you first arrived, what did you see?

13 A. Multiple people scrambling, running outside of the
14 building.

15 Q. And when you say multiple people, how many people were
16 there approximately?

17 A. Approximately, probably 30, 40 people. It was a crowd
18 of people who were out for the night.

19 Q. And was the scene hectic?

20 A. It was at first, yes.

21 Q. Okay. When you say it was at first, what happened?

22 A. There were several officers trying to get on scene as
23 well as several patrons from the location running, trying to
24 get to their cars to leave, and we were trying to contain
25 the scene.

1 Q. Were you and other officers finally able to contain
2 the scene?

3 A. Yes.

4 Q. Did you notice anything about any of the cars parked
5 at that location?

6 A. Yes. There was a -- one of the sedans had several
7 bullet holes.

8 Q. And were you directed towards anything by any
9 employees of the club?

10 A. Yes. There were several cartridge casings that were
11 all around the ground. The employees also instructed that
12 the building had multiple bullet holes in it as well and
13 some of their equipment was damaged, and then the car as
14 well.

15 Q. And did you -- at some point, did you speak with any
16 of the occupants of the sedan?

17 A. Yes. I spoke to the driver of the sedan as well as
18 the passenger of the sedan.

19 Q. Without telling me what they said, who were those
20 people?

21 A. The passenger was a Mr. Hansy Sanchez, and the driver
22 was a Mr. Jorge Velasquez. He was the owner of the vehicle.

23 Q. I want to show you Government Exhibit 406. Do you
24 recognize this?

25 A. Yes. That is the side view of the parking lot

1 entrance, the side of the building, the side of Island
2 Vibes.

3 Q. And is this after the area was secured?

4 A. Yes.

5 Q. And there appears in that photo, there's some evidence
6 markers on the ground; is that right?

7 A. Correct.

8 Q. And were those there when you arrived?

9 A. No.

10 Q. Okay. And next to those evidence markers, what are
11 those?

12 A. Those are plastic cups from inside the Island Vibes
13 location that they use for drinks. They had placed multiple
14 cups over the cartridge casings so people would not trample
15 over the evidence.

16 Q. Were those there when you arrived?

17 A. Yes.

18 Q. Okay. So after you arrived, did someone call the
19 crime scene unit for those evidence markers?

20 A. Yes.

21 Q. And collect the cartridge casings?

22 A. Yes.

23 Q. Did you walk throughout the Island Vibes nightclub?

24 A. Yes.

25 Q. What did you see when you walked throughout there?

1 A. As far as inside the location or outside?

2 Q. Yeah, I'm sorry. Inside the location.

3 A. Inside the location, we noticed that there were
4 several bullet holes that came through the location and
5 knocked -- had struck the speakers and other equipment and
6 walls of the location.

7 Q. And that night, did you learn if anyone had been
8 injured?

9 A. I believe Mr. Sanchez had a small cut on his hand.

10 Q. Okay. Had anyone been shot?

11 A. No, nobody was shot.

12 Q. Were you also working on February the 25th of 2017?

13 A. Yes.

14 Q. And that's -- so that was about a week later?

15 A. Yes.

16 Q. And you were working in the same area?

17 A. Yes.

18 Q. And on February 25th of 2017, did you -- were you
19 called to the area of Antioch Pike and Murfreesboro Road?

20 A. I was, yes.

21 Q. And why were you called there?

22 A. I was working a vehicle accident crash scene.

23 Q. So initially, you were out there for a crash?

24 A. Yes.

25 Q. And about what time was that?

1 A. It was overnight. It was early hours. I believe
2 close around 5:00 a.m.

3 Q. Was it still dark when you were investigating the
4 crash?

5 A. It was still dark.

6 Q. While you were out there investigating this crash, did
7 you hear anything?

8 A. I heard multiple shots being fired coming from the
9 north of us on Murfreesboro Pike.

10 Q. And --

11 A. Near the Jack in the Box.

12 Q. I'm sorry. I didn't mean to interrupt you.

13 A. No, that's okay.

14 Q. How far away was the Jack in the Box from where you
15 were?

16 A. Less than a quarter of a mile.

17 Q. And approximately how many gunshots did you hear?

18 A. About four or five.

19 Q. After you heard those gunshots, what happened?

20 A. There was a white sedan that was speeding towards us,
21 myself as well as a few other officers and detectives that
22 were on the crash scene with me on Una Antioch Pike.

23 Q. Had you seen that car before?

24 A. Yes.

25 Q. Where?

1 A. It was the same car that was involved in the shooting
2 incident on the week prior at Island Vibes.

3 Q. And the car that you saw with bullet holes in it?

4 A. Yes. And it had new ones.

5 Q. Was the car coming towards you?

6 A. Yes.

7 Q. Okay. What happened as the car came towards you?

8 A. It came towards us on Una Antioch Pike. It stopped
9 right in front of us, and then it just stayed stalled there.
10 There was no movement inside the car.

11 Q. I want to show you United States Exhibit 440.

12 Do you recognize this photograph?

13 A. Yes.

14 Q. And what is that a photograph of?

15 A. That is a photograph of, to the left of it, the two
16 vehicles together is the crash scene I was originally
17 working. The white Toyota -- I'm sorry -- the single
18 vehicle in the middle of the road is the vehicle that was
19 involved that drove towards us.

20 Q. And is that the vehicle with the door, the driver's
21 side door open?

22 A. Yes.

23 Q. Okay. Now you -- I want to also show you United
24 States Exhibit 441. Do you recognize this?

25 A. Yes.

1 Q. Okay. And what's that a photograph of?

2 A. That is the white Toyota Scion. It's the vehicle that
3 was involved in the prior shooting incident the week prior
4 at Island Vibes. It was also the same car that Mr. Hansy
5 Sanchez was driving towards us after we heard the shots
6 fired coming from Murfreesboro Pike.

7 Q. And is there something about the rear window in that
8 photograph that you can see?

9 A. The back window was shattered.

10 Q. Now, you mentioned that there was a Mr. Hansy Sanchez
11 in the vehicle.

12 A. Yes.

13 Q. Was that person driving?

14 A. Yes. He was in the driver's seat. He was the only
15 occupant inside the vehicle.

16 Q. And when you -- I believe you testified when the car
17 stopped, there was no movement?

18 A. Correct.

19 Q. And was the -- was Mr. Sanchez, the driver, was he
20 moving when the car stopped?

21 A. No.

22 Q. And what happened after the car stopped?

23 A. Myself and the other officers that were with me gave
24 multiple commands for the driver to open up the door. When
25 there was no movement, we approached the vehicle, opened it

1 up, Mr. Sanchez fell out of the vehicle.

2 Q. And what you say "fell out," what do you mean?

3 A. He slumped over and we helped him out.

4 Q. I want to show you United States Exhibit 447.

5 And is that the -- is that a photograph of the
6 driver's side of that vehicle?

7 A. Yes, with the door open.

8 Q. Okay. And when -- Mr. Sanchez, did he actually fall
9 out of the vehicle or did he slump over?

10 A. He slumped over falling out of the vehicle. He did
11 not walk out.

12 Q. I want to also show you United States Exhibit 448. Do
13 you recognize this photograph?

14 A. Yes. That is the picture of the driver's seat. It
15 has blood stain all over the steering wheel.

16 Q. And if you can, in that photograph, did you notice
17 anything about the front windshield?

18 A. Yes. It has bullet holes in it.

19 Q. Now, after, was Mr. Sanchez responsive?

20 A. Barely.

21 Q. And what -- did you notice anything about him?

22 A. He had been shot in the neck.

23 Q. Was he bleeding?

24 A. Yes.

25 Q. And what, if anything, did you or the other officers

1 on the scene do?

2 A. We provided him medical attention, called for an
3 ambulance to help try and keep him alive.

4 Q. Where -- do you remember where on his neck Mr. Sanchez
5 was bleeding from?

6 A. He was -- went through the back of his neck and it
7 came out the front.

8 Q. And did -- how did you -- how did you render medical
9 treatment?

10 A. The other officer on the scene had applied pressure to
11 his neck to keep from the -- to keep him from bleeding.

12 Q. Did the ambulance arrive?

13 A. Yes.

14 Q. Approximately how long? Do you remember?

15 A. I don't remember on that.

16 Q. When --

17 A. It wasn't hours. It was immediate.

18 Q. When -- did Mr. Sanchez go in the ambulance and leave?

19 A. Yes. He was transported.

20 Q. Was he alive when he left?

21 A. Yes.

22 Q. After the ambulance left, what did you and the other
23 officers do?

24 A. We contained the scene, set up a perimeter around
25 where we were at and blocked off the roadway.

1 Q. Did Crime Scene arrive?

2 A. Crime Scene came out right around as daylight started
3 hitting or started coming.

4 Q. And I think in those photographs, it appeared to be
5 bright outside; is that right?

6 A. Yes.

7 Q. So did the -- did it continue into the early morning
8 hours?

9 A. It did. It came in, we were going through a shift
10 change.

11 **MR. HOFF:** I have no further questions, Your
12 Honor.

13 **THE COURT:** All right. Mr. Ganguli?

14 **MR. GANGULI:** No questions, Your Honor.

15 **THE COURT:** Thank you. Ms. Hood-Schneider?

16 **MS. HOOD-SCHNEIDER:** No questions.

17 **THE COURT:** Thank you. Mr. Bloom?

18 **MR. BLOOM:** No questions, Your Honor.

19 **THE COURT:** Thank you, Officer. You may step
20 down.

21 **THE WITNESS:** Thank you.

22 (The witness stepped down.)

23 **THE COURT:** All right.

24 **MR. SAFEEULLAH:** The United States calls Justin
25 McCormick.

1 **THE COURT:** All right. Mr. McCormick may come
2 forward.

3 (The witness was sworn.)

4 * * *

5 **JUSTIN McCORMICK,**
6 **was called as a witness, and after having been first duly**
7 **sworn, testified as follows:**

8 **DIRECT EXAMINATION**

9 **QUESTIONS BY MR. SAFEEULLAH:**

10 Q. Good morning.

11 A. Good morning.

12 Q. Can you please state and spell your last name for the
13 record.

14 A. My last name?

15 Q. Can you please state your full name and spell your
16 last name for the record?

17 A. Justin McCormick. Last name is M-C-C-O-R-M-I-C-K.

18 Q. Where are you presently employed?

19 A. Nashville Police Department.

20 Q. And what's your job title?

21 A. I'm a field training officer.

22 Q. How long have you been a police officer with Metro
23 Nashville Police department?

24 A. Ten years.

25 Q. And what side of town do you work on now?

1 A. The West Precinct.

2 Q. Where were you working before you worked with -- with
3 the West Precinct?

4 A. South Precinct.

5 Q. And approximately how long were you working in the
6 South Precinct?

7 A. Approximately four to five years.

8 Q. So on January the 18th, 2017, you would have been
9 working on the South Precinct?

10 A. Yes, sir.

11 Q. And you were working as a patrol officer?

12 A. Yes, sir.

13 Q. I want to draw your attention to a shooting incident
14 that occurred on January 18th, 2017. Did you respond to an
15 incident that night?

16 A. Yes, sir.

17 Q. Do you know where you went to?

18 A. Yes, sir.

19 Q. Where did you go?

20 A. It was off of Billingsgate Road.

21 Q. Can we pull up United States Exhibit 382.

22 Can you tell us what we're looking at in this
23 photograph?

24 A. That silver-ish SUV is a vehicle that was described in
25 the -- to be involved in the shooting.

1 Q. And what was your primary role when you got to this
2 residence?

3 A. I would have been to secure the scene. I was the
4 officer responsible for that zone, so I would have also done
5 any medical attention if it needed to be required, if there
6 was a victim there.

7 Q. And can we pull up United States Exhibit 385.

8 Can you tell us what we're looking at in this
9 photograph?

10 A. It's the front of the vehicle that was -- has some
11 bullet holes in the hood and through the windshield of the
12 vehicle that was involved.

13 Q. And do you know if the victim was injured in this?

14 A. Yes.

15 Q. What type of injuries did he sustain?

16 A. It would have been gunshot wounds to the right -- I
17 believe it was the arm and a leg. I might have to refresh
18 my memory with the report.

19 Q. But you remember that this victim had gunshot wounds?

20 A. Yes, sir.

21 Q. Did you go to the hospital with him, or did you stay
22 at the scene?

23 A. I stayed at the scene.

24 Q. What did you do as you stayed at the scene?

25 A. I secured the scene, waited for the ID unit to process

1 the scene.

2 Q. Were you also working on February the 25th, 2017?

3 A. Yes, sir.

4 Q. And what side of town were you working on on that day?

5 A. South Precinct.

6 Q. What shift were you working?

7 A. The midnight shift.

8 Q. So you and Autumn Manning probably would have been
9 working around the same time?

10 A. Yeah, we were on the same detail. We worked together.

11 Q. Same side of town, same shift?

12 A. Yes.

13 Q. Did you respond to an incident in the early morning
14 hours?

15 A. Yes.

16 Q. And what incident did you respond to?

17 A. Originally, I was -- I had responded to an alarm call
18 on that day.

19 Q. And where did you respond? What location did you
20 respond to to that alarm call?

21 A. It was -- I don't remember the location. It was just
22 on Murfreesboro. It would have been a commercial alarm.

23 Q. And was Autumn Manning out there at the scene that
24 day?

25 A. Not on that scene. While I was on that scene, there

1 was -- I responded to some -- a shooting incident off of
2 Murfreesboro and Una Antioch, which is what we're talking
3 about.

4 Q. And while you were at that scene, what happened?

5 A. There was a victim that was inside the driver's side
6 of the vehicle. We were assessing gunshot wounds,
7 particularly one to the neck which was significant enough to
8 call for an ambulance.

9 Q. And what did you do to this victim that was shot
10 through the neck?

11 A. We made sure to apply pressure and continue to give
12 medical attention until the medics got there.

13 Q. Can we pull up United States Exhibit 440.

14 Is this the scene that you're -- just got finished
15 describing to us?

16 A. Yes, sir.

17 Q. And can we pull up United States Exhibit 448.

18 Is this also what the scene or the car looked like
19 while you were out there?

20 A. Yes, sir.

21 Q. And what's that on the steering wheel?

22 A. That would be blood.

23 Q. Can you see the headrest? Is there something with the
24 headrest that we should know about?

25 A. There's a bullet hole through the gun rest -- or, I

1 mean, through the headrest.

2 Q. Were you there when the paramedics got there or the
3 ambulance?

4 A. Yes, sir.

5 Q. Did you leave this scene and go to the hospital, like
6 following the paramedics or after the paramedics?

7 A. Yes. I was responsible for following the ambulance to
8 the hospital to verify the significance of the injuries and
9 to get any further statements or evidence at the hospital.

10 **MR. SAFEEULLAH:** Your Honor, may I approach this
11 witness?

12 **THE COURT:** You may.

13 **BY MR. SAFEEULLAH:**

14 Q. I'm passing up what's previously been marked as
15 United States Exhibit 30. Can you look at that exhibit?

16 A. Yes, sir.

17 Q. Do you know what that is?

18 A. That's a bullet that has been fired from a shell.

19 Q. Did you recover that bullet from the hospital?

20 A. I did.

21 **MR. SAFEEULLAH:** Your Honor, I move to admit into
22 evidence United States Exhibit 30.

23 **THE COURT:** Absent objection, Government
24 Exhibit 30 will be admitted.

25 (Government Exhibit 30 was marked and admitted

1 into evidence.)

2 **MR. SAFEEULLAH:** Your Honor, I don't have any
3 additional questions for this witness.

4 **THE COURT:** All right.

5 **MR. GANGULI:** No questions, Your Honor.

6 **THE COURT:** Thank you.

7 **MS. HOOD-SCHNEIDER:** No questions.

8 **THE COURT:** Thank you.

9 **MR. BLOOM:** No questions, Your Honor.

10 **THE COURT:** All right. Thank you, officer. You
11 may step down.

12 **THE WITNESS:** Thank you, sir.

13 (The witness stepped down.)

14 **THE COURT:** All right. If the government wishes
15 to call its next witness.

16 **MS. FARZAD:** Thank you, Your Honor. The
17 government calls Hansy Sanchez to the stand.

18 **THE COURT:** All right. He may come forward.

19 (The witness was sworn.)

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

* * *

HANSY SANCHEZ,

was called as a witness, and after having been first duly sworn, testified as follows:

DIRECT EXAMINATION

QUESTIONS BY MS. FARZAD:

Q. Good morning, sir.

A. Good morning.

Q. Can you please state and spell your name for the record?

A. My name is Hansy Sanchez. H-A-N-S-Y, S-A-N-C-H-E-Z.

Q. Where were you born, Mr. Sanchez?

A. Guatemala.

Q. How old were you when you came to the United States?

A. 4 years old.

Q. Why did you come to Nashville, Tennessee?

A. To have a better future.

Q. Did you go to high school here?

A. Yes.

Q. What grade did you graduate -- I'm sorry. What grade did you go to in high school?

A. I went to eleventh grade.

Q. Sir, have you used drugs in your life?

A. Yes.

Q. How old were you when you first started using drugs?

1 A. I was 12 years old.

2 Q. And what kind of drugs did you use at first?

3 A. Weed.

4 Q. At some point, did your drug use increase to other
5 drugs?

6 A. Yes.

7 Q. Okay. And what other drugs have you used?

8 A. Later on in my life, I used cocaine and, furthermore,
9 I used methamphetamine.

10 Q. Okay. And how often would you use those drugs?

11 A. Pretty often.

12 Q. How long were you using these drugs? From about what
13 age to what age?

14 A. Probably I was 14 to the present day.

15 Q. Okay. When was the last time you used drugs?

16 A. A couple of months ago.

17 Q. Okay. In addition to using drugs, have you also sold
18 drugs?

19 A. Yes.

20 Q. What kind of drugs have you sold?

21 A. Cocaine.

22 Q. Do you remember about how old you were when you
23 started selling cocaine?

24 A. 15, 16.

25 Q. Okay. And how long, about, did you sell cocaine for?

1 How many years?

2 A. Probably four or five.

3 Q. Okay. Where did you sell cocaine?

4 A. Here in Tennessee.

5 Q. Did you sell it in any particular places?

6 A. Bars.

7 Q. Do you remember the names of any of those bars?

8 A. Bola Ocho and La Mansion.

9 Q. Okay. What time period are we talking about when you
10 sold at Bola Ocho and La Mansion? Are we talking like . . .

11 A. 2015, 2016.

12 Q. Okay. And who provided the cocaine that you sold?

13 A. Luis.

14 Q. Do you call him anything else?

15 A. Lucito.

16 Q. Does he go by any other names?

17 (Reporter clarification.)

18 **THE WITNESS:** Lucito.

19 **BY MS. FARZAD:**

20 Q. Thank you. Does he go by any other names?

21 A. Gordo.

22 Q. I'd like to show Government Exhibit 1259, please.

23 Who is this, sir?

24 A. Luis.

25 Q. Okay. And was he a friend of yours?

1 A. Yes.

2 Q. Did you live with him at some point?

3 A. Yes.

4 Q. So in early 2017, were you still selling cocaine in
5 Bola Ocho and La Mansion?

6 A. Yes.

7 Q. How would it work? If somebody in one of those clubs
8 wanted to buy cocaine from you, how would they approach you
9 to purchase the cocaine?

10 A. They just come to me or saying they wanted 20 or
11 something.

12 Q. Okay. And what would that mean, "I want 20"?

13 A. Like .2 of cocaine.

14 Q. Is 20 the quantity or the price?

15 A. The price.

16 Q. Okay. And what size -- how much cocaine could you get
17 for \$20?

18 A. 0.2 grams.

19 Q. Okay. Now, while you were selling cocaine in these
20 nightclubs in the bathrooms, did you see other people
21 selling cocaine in there also?

22 A. Yes.

23 Q. And did you know some of those people?

24 A. Did I know them? No.

25 Q. Did you recognize them? Did you see them over and

1 over?

2 A. That I recall, no. Because I would just go in there
3 and do my own thing. I wouldn't pay attention to other
4 people.

5 Q. Okay. So you don't remember seeing the same faces in
6 the bathrooms selling the drugs?

7 A. Over and over? No.

8 Q. Okay. Do you know any of the people that you saw,
9 let's not say over and over, but sometimes in those
10 bathrooms?

11 A. Probably.

12 Q. Well, probably, or do you remember them? Let me take
13 that back. Strike that.

14 It's been a long time, has it not?

15 A. Yes, ma'am.

16 Q. Okay. And is your memory clear, as clear today as it
17 was back in 2017?

18 A. No.

19 Q. Okay. Do you -- back in 2017, did you know the names
20 of some of the people that you saw in the bathroom?

21 A. Probably, yes.

22 Q. Okay. Do you recall -- have you met with the
23 government before today? Have you met with the prosecutors
24 before today?

25 A. Yes.

1 Q. Okay. And do you recall meeting with prosecutors back
2 in 2018?

3 A. No.

4 Q. Do you recall meeting with prosecutors a few years
5 ago?

6 A. Yes.

7 Q. Okay. And did you have an occasion to come to the
8 courthouse and testify in the Grand Jury? Do you remember
9 that?

10 A. No.

11 Q. Do you remember going into a room with other people
12 and having a prosecutor ask you questions?

13 A. Yes.

14 Q. Okay. And do you remember if there was a court
15 reporter there, similar to the woman sitting right here in
16 court?

17 A. No, I don't think she was. Well, not exactly her,
18 but . . .

19 Q. But a person like her?

20 A. Yeah.

21 Q. Recording the conversation?

22 A. I mean, she wasn't in the room, but I guess somebody
23 was recording the conversation.

24 Q. Okay. So what I'd like to do is, I'm going to hand
25 you -- and I don't want you to look at it yet, but I want to

1 hand you a transcript from that proceeding.

2 **MR. LUCAS:** Your Honor, may we approach?

3 **THE COURT:** You may.

4 (WHEREUPON, a bench conference was had out of the
5 hearing of the jury, as follows:)

6 **MR. LUCAS:** Understand where Ms. Riley's going,
7 but I'm not sure that we got there yet in terms of him not
8 remembering certain things. I know he said previously that
9 he doesn't remember, and then she'll say something, and
10 he'll say, oh, yeah, I remember that.

11 My thing is, we haven't gotten to any questions
12 where he definitively says I don't remember or I don't -- so
13 if we're going to refresh his recollection at this point, I
14 don't know if that's -- it's the proper time to do it.

15 **THE COURT:** All right.

16 **MS. FARZAD:** May I be heard?

17 **THE COURT:** Response?

18 **MS. FARZAD:** He's right. We're not quite there
19 yet. All I'm doing is going to give this to the witness so
20 that when the time comes, he has it. I do anticipate that
21 he -- his memory is challenged given his drug use and the
22 length of time that it's been. And so --

23 **THE COURT:** We'll be real quiet.

24 **MS. FARZAD:** -- the length of time that it's been
25 and his drug use. I do anticipate that he will likely need

1 to be refreshed, but that's why I said I'm going to hand it
2 to you and do not look at it. And I'm going to ask the
3 question again, and if he does not remember the names of the
4 people that he saw selling drugs in the bathroom, I'm going
5 to ask to refresh his memory.

6 **THE COURT:** Do we -- understanding that, I do
7 wonder, though, if we hand a document for purposes of
8 refreshment just in case, I think that's a little out of the
9 ordinary. I wouldn't say it's wrong. Is there a particular
10 reason you're kind of teeing it up like that rather than --

11 **MS. FARZAD:** No. It's just, unlike a police
12 officer who often has their reports with them, he's a lay
13 witness and didn't have a copy of his Grand Jury transcript,
14 so it was just --

15 **THE COURT:** All right. Well, why don't you -- I
16 think you've -- you know, I think you sort of described the
17 document that you may have in hand to refresh later if
18 needed. I would say hold on to it until later, and at that
19 time, then you -- if and when necessary, you can tell him
20 what you're handing up.

21 **MS. FARZAD:** Okay.

22 **MR. LUCAS:** The only other question, the only
23 other point I wanted to make is, I know we're trying to
24 refresh his recollection. I get it. But the leading
25 questions, we've gotten into a little bit more leading than

1 probably what needs to take place on direct.

2 **THE COURT:** All right. So if, in the future, you
3 know, as leading questions are coming, if you want to object
4 to them, I'll certainly resolve the objection. Sure.

5 **MR. LUCAS:** Thank you.

6 **THE COURT:** All right. Thank you.

7 (WHEREUPON, the bench conference concluded, and
8 the following took place within the presence and hearing of
9 the jury:)

10 **BY MS. FARZAD:**

11 Q. Okay, sir. I believe I was asking you about some of
12 the people that you saw selling drugs in the nightclubs,
13 when you were in the bathroom selling those drugs.

14 Do you remember, sitting here today, the names of any
15 of those people?

16 A. Huh-uh.

17 Q. Okay. Would it refresh your memory to review the
18 transcript of what you testified in the Grand Jury to see if
19 you can remember the names of some of those people?

20 A. Yeah, that's fine.

21 **MS. FARZAD:** Your Honor, may I approach the
22 witness and hand him the Grand Jury transcript?

23 **THE COURT:** You may.

24 **MS. FARZAD:** Thank you. And with the Court's
25 indulgence, I'm going to direct him to a page in just one

1 moment.

2 **THE COURT:** All right.

3 **BY MS. FARZAD:**

4 Q. Sir, could you turn to page 11, please, and please
5 don't read this out loud, but if you could read page 11 to
6 yourself and look up when you're finished.

7 A. (Witness complies.)

8 Q. And sir, could you also please take a look at page
9 No. 14 and read that as well.

10 A. (Witness complies.)

11 Q. Has your memory been refreshed?

12 A. Yes.

13 Q. Okay. What were some of the names of people that you
14 saw in the bathroom selling drugs?

15 **THE COURT:** One moment. If you could flip that
16 document over, and it's important that you kind of testify
17 from your refreshed memory rather than just read it off the
18 page. Thank you.

19 **THE WITNESS:** Some was Happy, Frijole.

20 **BY MS. FARZAD:**

21 Q. Okay. I'd like to show Government Exhibit 1268,
22 please.

23 Who is this?

24 A. That's Happy.

25 Q. Okay. And he's one of the people you saw in the

1 bathrooms selling cocaine?

2 A. (Nodding head affirmatively.)

3 Q. Do you know if Happy is a member of any gang?

4 A. I'm not -- I'm not sure.

5 Q. How about Government Exhibit 1277, please.

6 And who is that?

7 A. That's Frijole.

8 Q. Okay. And do you know, is he one of the people that
9 you saw selling in the bathrooms?

10 A. Yes.

11 Q. Okay. And do you know if he's a member of any gang?

12 A. Yes.

13 Q. What gang is he a member of?

14 A. MS-13.

15 Q. Okay. Do you know if Happy sold drugs for anybody?

16 A. No.

17 Q. Okay. All right. I'd like to -- how often were you
18 selling drugs in these nightclubs in that time period? Was
19 it every weekend or . . .

20 A. Almost every weekend.

21 Q. Okay. And at some point, do you know whether or not
22 Happy knew your friend Luis?

23 A. No, I didn't.

24 Q. Okay. Was there ever a time when there was a
25 confrontation between you and any of the other people

1 selling drugs in the bathrooms?

2 A. Yes.

3 Q. Okay. Can you tell the jury what happened with that?

4 A. We were fighting over a sale of \$50 worth of cocaine.
5 And I recall that the dude that was there didn't have change
6 for a 100-dollar bill. So he went and got change, but
7 before he came back, I stole him, the sale, because I had
8 change. And then he came back and he saw that I had taken
9 the customer.

10 Q. Okay. Do you remember who that person was that you
11 had this altercation with?

12 A. No.

13 Q. Do you remember if he was a part of a gang?

14 A. Yes.

15 Q. What gang was he a part of?

16 A. MS-13.

17 Q. Okay. After that altercation, what, if anything, did
18 anyone from MS-13 say to you about selling drugs in the
19 bathrooms?

20 A. That I had to stop.

21 Q. Do you remember who that person was who told you you
22 had to stop?

23 A. Happy.

24 Q. Okay. And what did he say to you, if you remember?

25 A. That if I wanted to keep on selling, that I would have

1 to become a member of the MS.

2 Q. And what if you didn't become a member of MS and you
3 kept on selling?

4 A. They would probably try to kill us or shoot us.

5 Q. What did you do after Happy told you that?

6 A. I went and told the person who I sold for.

7 Q. And who was that person?

8 A. Luis.

9 Q. Okay. And what did -- did you and Luis stop selling
10 cocaine after this?

11 A. No.

12 Q. Okay. You continued on?

13 A. (Nodding head affirmatively.)

14 Q. Okay. Now, Mr. Sanchez, you've admitted to selling
15 drugs here in open court, but prior to testifying here
16 today, did you sign a nonprosecution agreement with the
17 government about where we would agree that we wouldn't
18 prosecute you for the criminal activity concerning the drug
19 distribution in and around 2014 to present day?

20 A. I don't really remember that.

21 Q. Do you remember entering into some type of an
22 agreement with the government?

23 A. No.

24 Q. Okay. Let me --

25 **MS. FARZAD:** Your Honor, if I may --

1 **THE COURT:** All right.

2 **MS. FARZAD:** -- hand the witness a copy of this
3 agreement.

4 **THE COURT:** Okay.

5 **BY MS. FARZAD:**

6 Q. Sir, can you just take your time and scan through that
7 agreement and refresh yourself with the agreement.

8 A. (Witness complies.)

9 Q. Sir, did you see your signature on there?

10 A. Yes.

11 Q. Did reviewing that refresh your memory of the
12 agreement you had with the government?

13 A. Yes.

14 Q. Okay. What's your understanding, under the agreement,
15 of what you have to do?

16 A. I didn't get that.

17 Q. Okay. As part of your agreement with the government,
18 did the government agree not to prosecute you for the drug
19 distribution that you engaged in that you testified about
20 here in court?

21 **MR. LUCAS:** Objection, Your Honor. Leading.

22 **THE COURT:** Response to that?

23 **MS. FARZAD:** Your Honor, I'm just trying to
24 direct the witness through this document.

25 **THE COURT:** All right. If we could approach,

1 please.

2 (WHEREUPON, a bench conference was had out of the
3 hearing of the jury, as follows:)

4 **THE COURT:** All right. We're in this unfortunate
5 situation, perhaps -- I mean, I don't know. I wasn't there.
6 But one suspects that we might be in this unfortunate
7 situation where there's no real dispute about what kind of
8 agreement he has, but he doesn't seem to recall anything.

9 Now --

10 **MR. LUCAS:** And, Your Honor, the other issue
11 is -- and I've been here but the other issue is it sounds
12 like this is going to be the case with durn near everything
13 he testifies to.

14 **MS. FARZAD:** That what?

15 **MR. LUCAS:** It seems like this is going to be the
16 case with pretty much everything he testified to, and so
17 we're going to be --

18 **MS. FARZAD:** It's a difficult witness, I mean,
19 yes.

20 **MR. LUCAS:** But it's not difficult because he's
21 not -- he's not difficult because he's fighting against you,
22 he's difficult because he doesn't remember, which is an
23 issue.

24 **THE COURT:** One thing to consider is this. I'll
25 tell you what. There's a lot going on here. One thing is

1 this: And I perceive there are multiple reasons why the
2 government's bringing this out, and I won't speak for the
3 government, but part of it is, part of the process of not
4 hiding the ball from the jury. So the first thing to note
5 is the government's tried. All right? It's tried. Here's
6 someone that doesn't remember anything about this agreement.
7 And so that's one thing, whether the government, in its
8 option, can walk away from this.

9 The other thing is, and it -- what's the second
10 reason -- I mean, if we look at it in more detail, what's
11 the government trying to do? It's trying to elicit evidence
12 of his incentive to testify and his incentive to testify
13 truthfully versus falsely.

14 If the witness apparently has no idea right now
15 of those incentives one way or the other, is it proper to
16 suddenly remind him or just let his testimony proceed with
17 whatever evidence is in the record of what his motivations
18 are? That is to say, on our current record, it sounds like
19 this guy doesn't remember this agreement; therefore, there's
20 nothing in his agreement that could motivate him. I think
21 that's fair to say.

22 That's by way of saying -- all this is probably
23 of saying that I think we should proceed the following way:
24 You have probably a fair amount of additional stuff to get
25 into --

1 **MS. FARZAD:** Uh-huh, we do.

2 **THE COURT:** -- that you could proceed to before
3 you turn back to really what is generally Giglio
4 information, right, regarding his non-pros.

5 I suggest you proceed on that. Then over the
6 break, think -- both sides think about what they want to do
7 about the fact that we have the government trying to
8 disclose to the jury this information that tends to help the
9 defendant but the witness can't help the government with it.
10 Think about whether the government wants to leave it alone
11 because it's tried and has therefore, I think, met its
12 obligations not to hide the ball from the jury, or if one
13 side or the other wants to try and get into it further with
14 this individual, how are we going to go about doing it?

15 I do think it is relevant that the current record
16 shows that this prosecution agreement is something he
17 doesn't know anything about and it is not motivating him one
18 way or the other.

19 So I think on the break, think about this. We'll
20 take it up before the jury comes back in after break.

21 **MR. LUCAS:** I think the big question for me sort
22 of goes beyond the specific issue here. I think we've gone
23 through at least three different times where he's -- and the
24 issue really is, can he remember anything?

25 **THE COURT:** Anything. I think that's right.

1 That's another issue. We'll go to about 10:30. That's
2 another thing to consider over the break. We'll see how we
3 go until then, because here's the thing. The government is
4 allowed to try and elicit the testimony from the witness,
5 it's allowed to try to refresh the memory, but its
6 discussion about -- in addition to the non-pros agreement
7 issues, issues about the logistics of how we're going about
8 this and where we are when we reach the break is worth
9 discussing.

10 **MR. LUCAS:** And one last thing I did want to
11 mention. When he was refreshed, he was refreshed on page 11
12 and 14 specifically. But he -- in his testimony before the
13 Grand Jury, he mentions several names, and the only names --
14 it's clear the only name that he said he remembered, only
15 two names he's actually mentioned were the two names that he
16 saw in the transcript even though there are more names that
17 he -- he just didn't look at those pages.

18 And so that's another thing that's concerning in
19 terms of whether he actually remembers at all, because the
20 only names he's mentioned are the ones that he saw in the
21 transcript.

22 **THE COURT:** And we touched on this earlier. My
23 view that sometimes this is the elephant in the room. A
24 witness testifies in good faith that they're refreshed even
25 though -- and then they'll give the information that they

1 believe is accurate. Were they actually refreshed or do
2 they just kind of think that they're supposed to say they're
3 refreshed and they think that probably reading it off the
4 page counts as refreshed?

5 And the question of whether their memory is
6 really refreshed is probably a fair question. And if you're
7 skeptical, you're allowed to be, and that's fodder for cross
8 if you want to.

9 **MR. LUCAS:** Yes, I understand.

10 **THE COURT:** And I would say this. I'm trying to
11 be a stickler about this issue that I think you have raised
12 which is, I certainly don't want people reading off the
13 document used to refresh them. And obviously that's what
14 happened here. So he wasn't able to read a bunch of names
15 off the page. He was able to state two names that he said
16 he was refreshed as to.

17 I would say the final piece of this is that, you
18 know, it wouldn't shock me if he was actually refreshed as
19 to those two names but not others, but you're allowed to
20 cross about that.

21 And I think the government, if it wants to return
22 to the issue to see is your name -- is your memory refreshed
23 as any other names, it could do that, but we are going to --
24 particularly for a witness like this, but as with any
25 witness, we're going to be a stickler about the process for

1 refreshing and we're following that, working through it.

2 So let's go until 10:30, see where we are, and
3 talk about what we need to after the break.

4 All right. Thank you.

5 (WHEREUPON, the bench conference concluded, and
6 the following took place within the presence and hearing of
7 the jury:)

8 **THE COURT:** Thanks for your patients, folks.

9 **BY MS. FARZAD:**

10 Q. Sir, after the incident where Happy asked you to stop
11 selling cocaine in the bathrooms, do you recall whether or
12 not there was a time where people shot at you?

13 A. Yes.

14 Q. Okay. Did that happen on one or two different
15 occasions?

16 A. Two.

17 Q. Okay. I'd like to talk about the first one. Before
18 that shooting, do you recall where you were that night?

19 A. Yes.

20 Q. Where were you?

21 A. The Bola Ocho.

22 Q. Okay. And what's the Bola Ocho?

23 A. It's a bar.

24 Q. All right. What were you doing there that night?

25 A. We -- I went to sell.

1 Q. To sell what?

2 A. Drugs.

3 Q. Okay. Who was with you that night?

4 A. Luis.

5 Q. Is that Gordo, the person we just saw the photo of?

6 A. Yes.

7 Q. All right. Were you with anybody else that night?

8 A. Chamaco.

9 Q. I'd like to show, please, Government Exhibit 1280.

10 Who is this, sir?

11 A. That's Chamaco.

12 Q. Okay. And do you know if he's a member of any gang?

13 A. Yes.

14 Q. What gang is he a member of?

15 A. MS-13.

16 Q. And were you friends with Chamaco?

17 A. No.

18 Q. How did you know him?

19 A. Because of Luis.

20 Q. Was Luis friends with him?

21 A. I could say yes.

22 Q. Okay. While you were in the club that night, did you

23 see any other members of MS-13 at Bola Ocho?

24 A. One of them.

25 Q. Who was that person?

1 A. Happy.

2 Q. How late did you stay? Did you stay until the club
3 closed or did you leave before the club closed?

4 A. We stayed until, like, the club closed.

5 Q. All right. Did -- who left with you?

6 A. Me and Luis and Chamaco and another friend of ours.
7 His name is Tony.

8 Q. Okay. And who is Tony? Is he in any kind of a gang?

9 A. No.

10 Q. Where were you-all headed when you left?

11 A. La Mansion.

12 Q. Who drove?

13 A. Luis.

14 Q. What kind of car was Luis driving?

15 A. A Toyota Scion.

16 Q. If we could take a look, please, at Government
17 Exhibit 435.

18 Do you recognize this?

19 A. Yes.

20 Q. What vehicle is this?

21 A. The Toyota Scion.

22 Q. That's the car that y'all drove in that night?

23 A. Yes.

24 Q. As you pulled out of the parking lot of Bola Ocho, did
25 anyone notice any vehicles following behind?

1 A. When we barely got out at first, no. But while we
2 were driving towards the after-hour club, Chamaco noticed
3 that there was a Honda following us.

4 Q. Okay. And do you happen to remember what the Honda
5 looked like, the color, anything about it?

6 A. I think it was black or green. And it was a manual
7 car, and it had tinted windows.

8 Q. Okay. Where were you sitting in the car?

9 A. The back seat behind the passenger.

10 Q. And who was in the front-passenger seat?

11 A. Chamaco.

12 Q. When the car caught up to you-all, were you able to
13 get a look at the car, the Honda?

14 A. At the car physically, yes.

15 Q. Okay. Were you able to see inside of the Honda?

16 A. No.

17 Q. All right. What happened once the vehicle, the Honda,
18 caught up with you-all?

19 A. Well, we noticed that we were being followed. Chamaco
20 took his hand out of the car, out of the window, and shot
21 back at the Honda.

22 Q. Okay. Do you know why he did that?

23 A. No.

24 Q. Did you see where the bullet went that Chamaco shot?

25 A. No.

1 Q. Okay. At any point -- what happened next?

2 A. So after that shot happened, the car pulled up and
3 lowered down the window a little bit and started shooting at
4 us with an Uzi.

5 Q. When you say an Uzi, what does that mean?

6 A. A fast gun.

7 Q. A fast gun? Okay.

8 Did you see the faces of the people who were shooting
9 at you?

10 A. Not the faces, but some of them were wearing hats.

11 Q. Do you remember anything about the hats?

12 A. One of the hats was a -- a Nike, like a Yankees hat.

13 Q. Okay. And what were you-all doing while these guns,
14 this Uzi, was being shot at you-all?

15 A. We were running away -- well, driving away.

16 Q. Where were you headed?

17 A. Towards La Mansion.

18 Q. And how were you driving? Were you driving in a
19 straight line? What type of a road were you on?

20 A. No, we got on the back streets.

21 Q. The back streets?

22 A. Yes.

23 Q. Why was that?

24 A. Because it would have been difficult, more difficult
25 for them to have shot at us than if we would have hopped on

1 the highway. It would have been way easier for them to keep
2 shooting at us straight.

3 Q. Okay. And while you-all are driving through these
4 back streets, what's the green Honda doing?

5 A. Following us and still shooting.

6 Q. Where did you go next?

7 A. We parked. We got to La Mansion, and we parked behind
8 where it was at, and we jumped the fences.

9 Q. Okay. I'd like to take a look at Government
10 Exhibit 395.

11 Okay. What is this?

12 A. That's where La Mansion used to be.

13 Q. Okay. And if we could take a look at Government
14 Exhibit 416, please.

15 What's this?

16 A. That's the entrance of La Mansion.

17 Q. Okay. Is this where you-all drove?

18 A. We drove behind it.

19 Q. Okay. While they were shooting at you, was anybody in
20 your car struck by any of the bullets?

21 A. No.

22 Q. Do you remember whether the car itself was hit by any
23 of the bullets?

24 A. Yes.

25 Q. What happened to the car?

1 A. The back window shattered.

2 Q. Okay. I'd like to show Government Exhibit 434,
3 please.

4 Okay. What's this?

5 A. That's the car, and that's the window that got
6 shattered.

7 Q. Okay. And if we could take a look at 436, please.
8 And what's this?

9 A. That's the window.

10 Q. Where were you sitting in the vehicle when this window
11 was shot?

12 A. I was on the right side.

13 Q. Were you in the front or the back?

14 A. The back.

15 Q. Do you remember hearing the glass shatter?

16 A. No.

17 Q. Do you remember the bullet hitting the window?

18 A. No.

19 Q. Okay. And if we could take a look, please, at
20 Government Exhibit 433.

21 What's this here?

22 A. That's a bullet shot.

23 Q. All right. So I think you testified that once you
24 arrived in the parking lot, you got out of the vehicle. Who
25 was with you at that point?

1 A. Gordo, Chamaco, me, and my other friend Tony.

2 Q. And what did you-all do?

3 A. We got out the car, and we jumped over the fence, and
4 we started running.

5 Q. If we could take a look, please, at Government
6 Exhibit 1244. And maybe if we could zoom in just right in
7 this area here.

8 Okay. Sir, what's this a map of?

9 A. The apartments where we had Toyota Scion parked.

10 Q. Okay. And is this the area where you jumped the
11 fence, or had you gotten to this point yet?

12 A. No. That's way ahead of that.

13 Q. Okay. If we could take that down just for a second
14 then, please.

15 So when you jumped the fence, what was happening with
16 the green Honda at that point?

17 A. So when the green Honda noticed that we jumped the
18 fence, it just started to drove back in reverse. And then
19 when I heard the -- well, we all heard the police sirens
20 coming, so Chamaco told us that he had dropped the gun
21 inside the car. So then I came back -- I risked my life and
22 jumped the fence back and closed the car and locked it up
23 and parked it. And while I was putting it in park, a white
24 SUV came in.

25 Q. What happened when the white SUV came in?

1 A. It started shooting at me.

2 Q. Did you see any of the people shooting at you?

3 A. No.

4 Q. Do you know what kind of guns they were using?

5 A. AKs.

6 Q. How do you know that?

7 A. Because of the sound the AK makes.

8 Q. Okay. And I should ask: When this is going on when
9 you first got to the club, did you see, were there other
10 people inside the club, patrons?

11 A. Yes.

12 Q. So did you retrieve the gun from the vehicle that you
13 went back to get?

14 A. No. We left it inside the car.

15 Q. Okay. And what did you do after the white SUV started
16 shooting at you?

17 A. I ran behind the dumpster, and then while it was still
18 shooting at me, I jumped the fence again and I ran
19 towards -- going towards Sam's Club.

20 Q. Where did you go once you ran towards Sam's Club?
21 What happened next?

22 A. We got back to the parking in front of the Island
23 Vibes because the SUV and the other car had left already,
24 and the police were already getting there.

25 Q. Did you speak to the police that night?

1 A. Yes.

2 Q. Okay. What did you do after you spoke to the police?

3 A. We went and parked the car.

4 Q. Where did you park the car?

5 A. Behind the bar, behind Daniela's bar.

6 Q. If we could now take a look at Government

7 Exhibit 1244.

8 All right. What do we have here? What's this a map
9 of?

10 A. That's the Daniela's bar, and behind it is the
11 apartments where the car was parked.

12 Q. Okay. If we could zoom in just a little bit, please.
13 Thank you.

14 So if you can kind of describe for the jury where in
15 the apartment area did you park the vehicle?

16 A. To be exact, right where that mark is.

17 Q. Which mark? What color is the mark?

18 A. The top.

19 Q. Is it like a grayish blue -- oh, this white --

20 A. Yeah, right there.

21 Q. Oh, okay. Okay, great. Thank you so much.

22 All right. So once you parked the car there, what did
23 you-all do?

24 A. We just left to Miami.

25 Q. Okay. Miami, the city of Miami in Florida?

1 A. Yes.

2 Q. What -- first of all, who went to Miami?

3 A. Luis, me, and Arling.

4 Q. Who is Arling?

5 A. He was a friend of ours.

6 Q. Okay. And did you -- why did you guys go to Miami?

7 A. Because we noted that it was too hot, that we were
8 trying to get -- they were trying to shoot at us.

9 Q. How did you get to Miami?

10 A. We took Arling's car.

11 Q. Okay. I'd like to show you -- actually, if you could,
12 there's a binder next to you, and it is going to -- if you
13 could turn to the binder -- it's going to be probably your
14 last binder -- it's marked 1127 to 1328, probably the
15 furthest one. Do you see that?

16 Thank you.

17 Could you turn to the tab in there that is marked
18 1282? Do you recognize that photograph?

19 A. Yes.

20 Q. And what's that a photograph of?

21 A. Arling.

22 Q. How do you know that's Arling?

23 A. Because I used to be a friend of him.

24 MS. FARZAD: Okay. Your Honor, at this point,
25 the government would like to move into evidence Government

1 Exhibit 1282 with permission to publish to the jury.

2 **THE COURT:** Absent objection, Government
3 Exhibit 1282 will be admitted and may be published.

4 (Government Exhibit 1282 was marked and admitted
5 into evidence.)

6 **BY MS. FARZAD:**

7 Q. All right, sir. Who is this person?

8 A. That's Arling.

9 Q. And do you know, was Arling a member of any gang?

10 A. No.

11 Q. Did he hang out with any gang members?

12 A. Yes.

13 Q. Who did he hang around?

14 A. I know he hang out with Happy, Frijole, Peluche.
15 That's all I remember.

16 Q. All right. Who is -- well, what gang are those three
17 people a member of?

18 A. MS-13.

19 Q. Okay. And you mentioned Peluche. Do you know his
20 real name?

21 A. Huh-uh.

22 Q. Okay. Do you recognize him? If you were to see him
23 today, do you think you could recognize him?

24 A. Yes.

25 Q. Okay. Do you recognize him anywhere in the courtroom?

1 A. Yes.

2 Q. Can you please point out -- or describe what he's
3 wearing and where he's seated?

4 A. He's wearing a blue shirt.

5 Q. Okay. And where is he seated in the room?

6 A. In the middle.

7 Q. Is he to my left?

8 A. Yes.

9 **MS. FARZAD:** Let the record reflect, Your Honor,
10 that the witness has identified Jorge Flores, the defendant.

11 **THE COURT:** All right. Absent objection, the
12 record will so reflect.

13 And at this time, we'll take our midmorning
14 break, take about 15 minutes or so, and recommence with the
15 examination and go from there. The jurors may step down.
16 Thank you.

17 (WHEREUPON, the jury was excused from the
18 courtroom at 10:33 a.m., with matters being heard in open
19 court as follows:)

20 **THE COURT:** All right, folks. Anything we need
21 to talk about before break?

22 **MR. SAFEEULLAH:** Not from the United States.

23 **THE COURT:** All right. Then we'll see where we
24 are on the issue we had at the bench conference when we
25 return in about 15 --

1 **MR. LUCAS:** Your Honor, I had one question. It
2 looked like, at that last question, that the witness was
3 looking down reading and then looked up. And I'm wondering
4 if he was reading his Grand Jury transcript.

5 **THE WITNESS:** No, I was remembering because I
6 have trouble remembering.

7 **MR. LUCAS:** I do think we probably need to take
8 the transcript, though.

9 **THE WITNESS:** The transcript has been right here
10 on top of the desk the whole time. I haven't touched it.

11 **THE COURT:** Had you looked at it after the time
12 period when the prosecutor asked you to look at it?

13 **THE WITNESS:** No, sir.

14 **THE COURT:** All right. Thank you, sir. But we
15 will -- we'll have Ms. Jackson grab that and return it to
16 the government.

17 All right, folks. Thanks. Everyone can be on
18 break for 15 minutes and we'll go from there. Thank you.

19 (Recess (10:14 a.m. to 10:58 a.m.))

20 **THE COURT:** All right. Anything we need to take
21 up here regarding what we were discussing earlier?

22 **MS. FARZAD:** Nothing from the United States, Your
23 Honor.

24 **THE COURT:** Anything from the defendants at this
25 time? No? All right. In that case, we can call in the

1 jury. Thank you.

2 **MS. FARZAD:** Your Honor, may I take the podium?

3 **THE COURT:** You may. Thank you.

4 **MS. FARZAD:** Thank you.

5 (WHEREUPON, the jury re-entered the courtroom at
6 10:59 a.m., with matters being heard in open court as
7 follows:)

8 **THE COURT:** All right. Thanks folks. Please be
9 seated.

10 **MS. FARZAD:** Thank you, Your Honor. May I
11 resume?

12 **THE COURT:** You may.

13 **MS. FARZAD:** Thank you, Your Honor.

14 **BY MS. FARZAD:**

15 Q. Sir, I believe when we left off, we were talking about
16 somebody named Arling. When was the last time you spoke
17 with Arling?

18 A. A long time ago.

19 Q. Do you know where Arling is today?

20 A. No.

21 Q. Do you know what happened to him?

22 A. The rumors were that he was killed.

23 Q. Okay. So going back to Miami, how long were you in
24 Miami?

25 A. A week.

1 Q. And why did you-all decide to come back from Miami?

2 A. Because we needed more money.

3 Q. So where did you go when you came back -- or when you
4 left Miami?

5 A. We came back to Nashville.

6 Q. What did you do the day you got back to Nashville?

7 A. We went -- we changed clothes and we went to
8 la Bola Ocho.

9 Q. Do you remember what day of the week that was?

10 A. I think it was a Saturday.

11 Q. And the shooting that we talked about just before the
12 break, how -- when did that occur in relation to when you
13 came back and you were at Bola Ocho? Do you remember?

14 A. One week ago.

15 Q. So one week prior?

16 A. (Nodding head affirmatively.)

17 Q. Why did you go to Bola Ocho that night?

18 A. Because that was my spot where I go and sell.

19 Q. Sell what?

20 A. Cocaine.

21 Q. Who went with you that night to Bola Ocho?

22 A. Chamaco and Luis and me.

23 Q. Did you consume any drugs that night while you were at
24 Bola Ocho?

25 A. Yes.

1 Q. What did you consume?

2 A. I consumed cocaine, Xanax, beer.

3 Q. How long did you stay at the club? Do you remember?

4 A. The whole night.

5 Q. Okay. Did you stay until it closed?

6 A. Yes.

7 Q. When the club closed, where were you guys going?

8 A. We were going to La Mansion.

9 Q. Who was with you?

10 A. Luis and Chamaco and me.

11 Q. Did you make it to La Mansion that night?

12 A. No.

13 Q. What happened?

14 A. We decided to go pick up the Scion.

15 Q. Okay. So the Scion, the white vehicle that we saw
16 that you had driven the week before; is that right?

17 A. Yes.

18 Q. Where was the Scion?

19 A. It was parked behind the Daniela's bars.

20 Q. Okay. And if we could pull up that map again, please.

21 Government Exhibit -- I believe it's 1244. Yes, please.

22 Government Exhibit 1244. Could you zoom in just slightly in
23 this area here, please. Great. Thank you.

24 Okay. So the vehicle, is it still parked in the same
25 area where you-all had left it the week before?

1 A. Yes.

2 Q. All right. And whose car did you drive in to get back
3 to Daniela's or the apartment parking complex?

4 A. Arling's car.

5 Q. What happened -- what was the plan once you got back
6 to the parking lot?

7 A. We were going to pick up the car and we were going to
8 go park it at a safe place because it was going to get
9 towed.

10 Q. Okay. So what happened when you got to the parking
11 lot apartment?

12 A. When we got there, I noticed there was a car parked in
13 front of -- at a store that it was closed. And it had the
14 car headlights on. And I noticed that was weird because it
15 was at 4:00 in the morning and the store was closed. So, I
16 mean, I wouldn't see why there would be a car there for any
17 reason parked, so I didn't put too much attention to it.

18 And we got inside the apartments, we went straight to
19 the car. And in front of the car, there was another car
20 parked, and I saw the reflection of the phone.

21 Q. What reflection of the phone did you see?

22 A. When he turned on his screen.

23 Q. Okay. So let's talk about the car that was parked
24 near the Scion. What kind of car was that? Do you
25 remember?

1 A. I think it was a Honda.

2 Q. You testified that there was a phone. Explain to the
3 jury what you mean by that.

4 A. He was parked. And probably, I guess, he was just
5 spying on the car. And he noticed that I got down the car
6 and got inside the car. I seen him turn on his phone, so
7 basically his lock screen.

8 Q. So when you're talking about the person with the
9 phone, is that the person who's inside of that vehicle that
10 you saw?

11 A. Yes.

12 Q. Okay. Were you able to see the person's face?

13 A. No.

14 Q. And the first vehicle that you mentioned that was
15 parked sort of when you came in, what kind of car was that?
16 Do you remember?

17 A. No, I don't.

18 Q. Okay. So what happened once you and Luis and Chamaco
19 arrived and you see this car? What happens next?

20 A. So we started driving out, and we went towards the
21 train tracks, and I thank God that the train had just
22 finished passing when they crashed into me and started
23 shooting at me.

24 Q. Okay. If you could point out if it's visible on the
25 map: What direction are you leaving? Where are the train

1 tracks?

2 A. The train tracks are right over here.

3 Q. It's not showing up on the screen. Can you describe
4 "to the left," "to the right" of where you were parked? Can
5 you describe for us, please?

6 A. To the right.

7 Q. Okay. So where is the exit? Is it -- do you need us
8 to zoom out, or are you able to use the map that's on the
9 screen?

10 A. You can zoom out a little bit.

11 Q. Okay. All right. If you could describe where the
12 exit is that you were -- where you were leaving the parking
13 lot.

14 A. So the exit is right here. Where it says Glenrose
15 Avenue, those are the exit from the apartments.

16 Q. So this is where you're driving out, right, at
17 Glenrose Avenue?

18 A. Yes.

19 Q. All right. So when you're getting to Glenrose Avenue,
20 you testified that a car crashed into you?

21 A. Yes, but it crashed where -- in front of
22 Daniela's Bar And Grill.

23 Q. Okay. As you're coming around the side of the parking
24 lot; is that right?

25 A. Yes.

1 Q. Do you remember what -- which car that was?

2 A. It was a Jeep. It was a white Jeep.

3 Q. What happened when the car crashed into you?

4 A. They popped my passenger front tire, and I got shot in
5 the neck.

6 Q. Okay. How do you know you got shot in the neck?

7 A. Because that was the first bullet that I felt.

8 Q. Describe for the jury what you mean by that.

9 A. When they crashed into me, the first bullet came in my
10 throat, and I felt it because I touched it.

11 Q. So you actually could feel the bullet coming out of
12 your neck?

13 A. Yes.

14 Q. What was happening to your neck at that point?

15 A. I was pouring out blood.

16 Q. And what did you think was going to happen to you?

17 A. I thought I was going to die right there in that
18 moment.

19 Q. So then what did you do?

20 A. I caught myself and I drove off.

21 Q. Where did you go?

22 A. I was heading towards La Vergne.

23 Q. Okay. What was the white Jeep doing that had shot at
24 you?

25 A. Well, there wasn't just one car. There was several

1 cars following me from both sides and behind me, and they
2 were all shooting at me at the same time.

3 Q. Okay. Do you remember anything about the people who
4 were shooting at you?

5 A. No.

6 Q. Do you remember anything about the guns they were
7 using?

8 A. Well, when I got to the hospital, they said one of my
9 shots that was here in the neck were a .45.

10 Q. Okay. So as you're driving and your neck is bleeding,
11 they continued to shoot at you, what happens next?

12 A. I kept on going straight, going towards La Vergne.
13 And then I received two last bullets in my back, which, I
14 still have one and it's right beside my spine.

15 Well, I was still driving when I seen a car accident
16 up ahead where I was going towards, and I seen the blue
17 lights. And then I just went right in the middle of the
18 accident.

19 Q. Okay. How many times in total were you shot?

20 A. Nine.

21 Q. Do you remember where?

22 A. Two times in my arm, my neck, my back, my finger, my
23 leg, and right here too (indicating).

24 Q. Okay. Is that your chest area?

25 A. Yes. And right here close to my chin.

1 Q. Okay. Now, when you -- you were driving and you said
2 you saw blue lights ahead. What condition were you in at
3 that point?

4 A. I was already fading out.

5 Q. What do you mean by fading out?

6 A. I -- I could barely drive.

7 Q. I'd like to show you Government Exhibit 440. Do you
8 recognize this?

9 A. Yes.

10 Q. What do you see here?

11 A. That was the car I was driving.

12 Q. The one with the door open here, the white one?

13 A. Yes. The one to the right.

14 Q. The blue lights, do you see them in the photograph?

15 A. Yes.

16 Q. What happened when you got to this point? Was the
17 door like that -- was your door already open? What happened
18 when you pulled up on the scene?

19 A. When I pulled up, the cars that were following me
20 still made a couple of shots to the police officers that
21 were standing out there. And they all got armed, and I
22 thought they were going to finish killing me. But I opened
23 my door, and I just fell to the ground.

24 Q. And do you remember anything after that?

25 A. No.

1 Q. I'd like to show you Government Exhibit 441. And
2 what's this here?

3 A. That was the car.

4 Q. What is on the back of the trunk in the bumper area?

5 A. Those are all bullet holes.

6 Q. Okay. Were they like that before you got in the car
7 to drive that night?

8 A. No.

9 Q. Okay. Government Exhibit 443, please.

10 What's that?

11 A. That's the car I was driving.

12 Q. Okay. And again, what's on the door panel there?

13 A. Bullet holes.

14 Q. Were they like that before you got in the car to drive
15 that night?

16 A. No.

17 Q. Can we take a look at Government Exhibit 448, please.

18 What's this?

19 A. That was the car I was driving.

20 Q. Were you sitting in that front passenger seat?

21 A. Yes.

22 Q. And what's on the steering wheel?

23 A. My blood.

24 Q. Government Exhibit 452, please.

25 Do you know what that is?

1 A. That's the bullet that I have in my back, on my spine.

2 Q. All right. Do you remember waking up in the hospital?

3 A. No.

4 Q. Do you know how long you were in the hospital for?

5 A. No.

6 Q. Do you know the extent of your injuries?

7 A. No.

8 Q. Okay. Have you had any lasting effects from the
9 shooting?

10 A. Yes. I do sometimes.

11 Q. What are those?

12 A. I wake up in the middle of the night, panic, or
13 sometimes I just have bad dreams that I go back, have
14 flashbacks.

15 Q. Are you -- how do you feel being here today?

16 A. A little bit, I'd say awkward, I guess we could say.

17 Q. I'm sorry. What did you say?

18 A. Awkward.

19 Q. Okay. How come?

20 A. This is my first time being this.

21 Q. Okay.

22 **MS. FARZAD:** One moment, Your Honor.

23 **THE COURT:** All right.

24 (Respite.)

25 **MS. FARZAD:** All right. Your Honor, I have no

1 more questions for the witness at this time.

2 **THE COURT:** All right. Mr. Ganguli?

3 **MR. GANGULI:** No questions, Your Honor.

4 **THE COURT:** All right. Thank you.

5 Ms. Hood-Schneider or Mr. Lucas?

6 **MR. LUCAS:** No questions, Your Honor.

7 **THE COURT:** Thank you. Mr. Bloom?

8 **MR. BLOOM:** No questions, Your Honor.

9 **THE COURT:** All right. Thank you, sir. You may
10 step down.

11 (The witness stepped down.)

12 **THE COURT:** Okay. Mr. Safeeullah?

13 **MR. SAFEEULLAH:** The United States calls Steven
14 Rowlett.

15 **THE COURT:** All right.

16 (The witness was sworn.)

17 * * *

18 **STEVEN ROWLETT,**

19 **was called as a witness, and after having been first duly**
20 **sworn, testified as follows:**

21 **DIRECT EXAMINATION**

22 **QUESTIONS BY MR. SAFEEULLAH:**

23 Q. Good morning.

24 A. Good morning.

25 Q. Could you please state your full name and spell your

1 last name for the record.

2 A. It's Steven Rowlett, R-O-W-L-E-T-T.

3 Q. And where are you employed?

4 A. Metro Nashville Police Department.

5 Q. And how long have you worked for the Metro Nashville
6 Police Department?

7 A. Just shy of 8 1/2 years.

8 Q. And what's your job title?

9 A. Currently I'm a detective.

10 Q. How long have you been a detective?

11 A. Since November of 2021.

12 Q. And what role were you serving before you became a
13 detective?

14 A. From summer of 2018 to November of 2021, I was a flex
15 officer. Our unit was restructured in a community
16 engagement unit.

17 Q. And prior to that, what did you do for the Metro
18 Nashville Police Department?

19 A. I was a patrol officer.

20 Q. And what side of town were you a patrol officer on?

21 A. Hermitage.

22 Q. So you would have been a patrol officer in Hermitage
23 in March of 2017?

24 A. Yes, sir.

25 Q. I would like to direct your attention to March 10th,

1 2017. Did you respond to a call at 1020 Thompson Place in
2 Nashville, Tennessee?

3 A. I did.

4 Q. And why did you go to that location?

5 A. I was dispatched there.

6 Q. And did you write a report about what you did on that
7 date?

8 A. I did.

9 Q. And could you tell the jury why you were dispatched
10 there and what you did?

11 A. I was dispatched there because Chapman's Wrecker
12 Service was supposed to be towing a vehicle from a private
13 lot. Typically what the wrecker services will do is they'll
14 run the VIN numbers. And it showed up in their systems as
15 it was stolen, so they contacted Metro Police dispatch, and
16 I responded.

17 Q. And what type of car was this?

18 A. It was a green Honda.

19 Q. Do you know what year it was?

20 A. Not off the top of my head.

21 Q. Well, when you got there, did you look for a VIN
22 number?

23 A. I did.

24 Q. Did you find one?

25 A. I did.

1 Q. What did you do with that VIN number?

2 A. I entered the VIN into our police database and ran it
3 through NCIC. And when I entered that in through the query,
4 I got a return, and it was showing that the vehicle was
5 stolen.

6 Q. So what did you do based on that response that you
7 got?

8 A. I began doing a recovery of the vehicle. It would
9 have included doing an incident report, an inventory search,
10 and then we would have -- if we had any evidence, we would
11 have turned it in.

12 Q. And why would you do an inventory search?

13 A. That's part of our policy. If we are taking a vehicle
14 to the impound lot, we have to do an inventory search.

15 Q. Did you conduct the inventory search of this green
16 Honda?

17 A. I did.

18 **MR. SAFEEULLAH:** Your Honor, may I have
19 permission to approach this witness?

20 **THE COURT:** Yes, sir.

21 **BY MR. SAFEEULLAH:**

22 Q. I've just passed up United States Exhibit 1332. Could
23 you look at that exhibit, please.

24 A. (Witness complies.)

25 Q. Do you know what that exhibit is?

1 A. It's an evidence bag that I turned in of shell
2 casings.

3 Q. And how do you know that it's the shell casings that
4 you turned in?

5 A. Because they were with the sealed evidence bag with
6 the complaint number and my name and signature on it.

7 **MR. SAFEEULLAH:** Your Honor, at this time, I move
8 to admit into evidence United States Exhibit 1332.

9 **THE COURT:** All right. Absent objection,
10 Government Exhibit 1332 will be admitted.

11 (Government Exhibit 1332 was marked and admitted
12 into evidence.)

13 **BY MR. SAFEEULLAH:**

14 Q. And where did you submit the shell casings, again?

15 A. To the Metro Nashville Police property and evidence
16 section.

17 **MR. SAFEEULLAH:** I don't have any additional
18 questions for this witness, Your Honor.

19 **THE COURT:** All right. Mr. Ganguli?

20 **MR. GANGULI:** No questions, Your Honor.

21 **THE COURT:** Ms. Hood-Schneider?

22 **MS. HOOD-SCHNEIDER:** No questions.

23 **THE COURT:** And Mr. Bloom?

24 **MR. BLOOM:** No questions, Your Honor.

25 **THE COURT:** All right. Thank you, Detective

1 Rowlett. You may step down.

2 **THE WITNESS:** Thank you.

3 (The witness stepped down.)

4 **MR. HOFF:** Your Honor, the United States calls
5 Jorge Luis Antunez Vasquez.

6 **THE COURT:** All right. He may come forward.

7 (The witness was sworn.)

8 * * *

9 **JORGE LUIS ANTUNEZ VASQUEZ,**
10 **was called as a witness, and after having been first duly**
11 **sworn, testified through the interpreter as follows:**

12 **DIRECT EXAMINATION**

13 **QUESTIONS BY MR. HOFF:**

14 Q. Sir, can you please state and spell your name for the
15 record.

16 A. Jorge Luis Antunez Vasquez.

17 Q. Sir, do you speak English?

18 A. No.

19 Q. Do you have a nickname?

20 A. El Gordo.

21 Q. Where are you from?

22 A. Honduras.

23 Q. How long have you lived in the United States?

24 A. 13, 14 years.

25 Q. And do you work?

1 A. Yes.

2 Q. What do you do for a living?

3 A. I remodel homes.

4 Q. In early 2017, did you sell drugs?

5 A. Yes.

6 Q. What kind of drugs?

7 A. Cocaine.

8 Q. And did you sell drugs with any of your friends?

9 A. Yes.

10 Q. Who is that?

11 A. Hansy.

12 Q. I want to show you United States Exhibit 1275.

13 Can you see that on your screen there?

14 A. Yes.

15 Q. Who is that?

16 A. Hansy.

17 Q. Did you also have a friend by the name of Chamaco?

18 A. Yes.

19 Q. Did you know Chamaco's real name?

20 A. No.

21 Q. I want to show you United States Exhibit 1280.

22 Do you recognize that person?

23 A. Yes.

24 Q. Who is that?

25 A. Chamaco.

1 Q. Did you call Chamaco by any other names?

2 A. No, just that.

3 Q. And was Chamaco a member of a gang?

4 A. I don't know. I think so.

5 Q. Okay. Why do you think that?

6 A. Because he was always on the street.

7 Q. Where -- in early 2017, where did you sell drugs?

8 A. On the street, in the bars.

9 Q. What bars?

10 A. La Mansion.

11 Q. Any other bars?

12 A. Bola Ocho.

13 Q. Around that time, did you provide -- were you
14 providing drugs to any members of MS-13?

15 A. Like once, twice.

16 Q. Did you know someone by the name of Scrappy?

17 A. Yes.

18 Q. Who was Scrappy?

19 A. Someone who I met in the street to sell drugs.

20 Q. And I want to show you United States Exhibit 1258.

21 Do you recognize that person?

22 A. Yes.

23 Q. Who is that?

24 A. That's Scrappy.

25 Q. Did you provide drugs to Scrappy?

1 A. Yes.

2 Q. Do you know about how many times?

3 A. Once or twice.

4 Q. And what did you provide to him?

5 A. Cocaine and marijuana.

6 Q. About how much? Do you remember?

7 A. Like one or two ounces.

8 Q. Did there come a point when you learned that Scrappy
9 had been arrested?

10 A. Yes.

11 Q. After Scrappy was arrested, did you provide drugs to
12 any other member of MS-13?

13 A. Yes.

14 Q. Who was that?

15 A. Cabezon.

16 Q. Okay. Did you know Cabezon's real name?

17 A. No.

18 Q. Did you know if Cabezon was related to anyone?

19 A. I don't know. I never spoke to him that way.

20 Q. I want to show you United States Exhibit 1271.
21 Do you recognize this person?

22 A. Yes.

23 Q. Who is that?

24 A. Cabezon.

25 Q. What kind of drugs did you provide to Cabezon?

1 A. Cocaine.

2 Q. And did you -- how did you give it to him? Did he pay
3 you for it?

4 A. No.

5 Q. Did you front it to him?

6 A. Yes.

7 Q. And what exactly does that mean, to front it to him?

8 A. I fronted it to him.

9 Q. Okay. So did you give it to him on credit?

10 A. Yes.

11 Q. And was he supposed to pay you back after he sold it?

12 A. Yes.

13 Q. How much did you provide to Cabezon?

14 A. Two ounces.

15 Q. Did Cabezon ever pay you back for that?

16 A. No.

17 Q. Did you ever ask him for the money, Cabezon?

18 A. No.

19 Q. Why not?

20 A. I didn't want any problems.

21 Q. And what do you mean by that?

22 A. Why was I going to fight over \$2,000?

23 Q. Did there come a time when you were told to stop
24 selling drugs inside Bola Ocho?

25 A. Yes.

1 Q. Who told you that?

2 A. Frank.

3 Q. I want to show you United States Exhibit 1268.

4 Do you recognize that person?

5 A. Yes.

6 Q. Who is that?

7 A. Frank.

8 Q. I want to ask you about February of 2017. Was there a
9 time that your car was shot at?

10 A. Yes.

11 Q. How many different days did that happen?

12 A. I don't remember exactly how many days, but there were
13 several days.

14 Q. Well, let's talk about the first time that that
15 happened. Do you remember that?

16 A. One or a couple of things, I do remember.

17 Q. Where -- the first time your car was shot at, where
18 were you?

19 A. At Bola Ocho.

20 Q. Who were you with?

21 A. With Hansy and Chamaco.

22 Q. And did you leave Bola Ocho that night?

23 A. Yes.

24 Q. Whose car were you in?

25 A. In a car I had.

1 Q. What kind of car was it?

2 A. A Toyota Scion.

3 Q. Do you remember what color?

4 A. Yes.

5 Q. What color?

6 A. Black with white.

7 Q. After you left Bola Ocho, what happened?

8 A. We left normal, and at a light in front of Kroger,
9 they stopped right next to us.

10 Q. Who stopped right next to you?

11 A. A car with two people.

12 Q. Do you remember what kind of car it was?

13 A. No, because it was at night. I don't remember what
14 color it was.

15 Q. After the car stopped next to you, what happened?

16 A. One bent backwards, and they began to follow me and
17 shoot at me.

18 Q. And is this the car that was next to you at the
19 stoplight?

20 A. Yes.

21 Q. Could you see anything that anyone in the car was
22 wearing?

23 A. Yes. Black clothes and a Yankees cap.

24 Q. After the car started -- or the people in the car
25 started shooting at you, what did you do?

1 A. Well, I tried to run and flee.

2 Q. And was -- when you say run, were you driving?

3 A. Yes.

4 Q. How did you try and flee?

5 A. Well, driving until losing them.

6 Q. And did you take -- how did you try and lose them?

7 A. Well, on the streets, taking streets that I knew.

8 Q. Did you see any other cars following you other than
9 the initial car you saw?

10 A. At that moment, I did not until I got to the place I
11 was getting to, and then another car showed up and they
12 began shooting.

13 Q. So where were you -- the place you were going to,
14 where was that?

15 A. La Mansion.

16 Q. Did you make it to La Mansion?

17 A. Yes, into the parking lot.

18 Q. What happened when you got into the La Mansion parking
19 lot?

20 A. I got out of the car, I began to run, and they started
21 shooting.

22 Q. So there were more shots when you arrived at
23 La Mansion?

24 A. Yes.

25 Q. What about the other occupants of your car? Where did

1 they go?

2 A. They ran.

3 Q. You mentioned that you saw another car once you got to
4 La Mansion. Where did you see that car?

5 A. I don't know. I know the car just came in, and I
6 started to run.

7 Q. Did you see if anyone shot at you from the other car?

8 A. They were shooting, just like that.

9 Q. And was -- I'm sorry. Maybe I wasn't clear. The
10 second car that you saw, was anyone shooting at you from
11 that car?

12 A. No, because I left running, and the other car arrived
13 and he just began shooting. And I didn't . . .

14 Q. Where did you run?

15 A. Like that, over there to a part in the back.

16 Q. So a park in the back of where? La Mansion?

17 A. Yes.

18 Q. How many gunshots did you hear?

19 A. A bunch.

20 Q. At some point, did the shooting stop?

21 A. Yes.

22 Q. And where -- did you go back to where your car was
23 parked after the shooting stopped?

24 A. Yes.

25 Q. Were the police there?

1 A. Yes.

2 Q. Did you speak with them?

3 A. Yes, because they were asking me who was the owner of
4 the car.

5 Q. Did -- what did you do with your car after that night?

6 A. I went to park it at some apartments.

7 Q. I want to show you United States Exhibit 409.

8 Do you recognize this, what's in this photograph?

9 A. Yes.

10 Q. What is that a photograph of?

11 A. Of a parking lot.

12 Q. Okay. And did you -- was this the parking lot you
13 were in the night that your car was shot at?

14 A. Yes.

15 Q. And where did you run to? Is it in this photograph?

16 A. Like over to the back.

17 Q. To the back of what's shown in this photograph?

18 A. Yes.

19 Q. I also want to show you United States Exhibit 434.

20 Do you recognize this?

21 A. Yes.

22 Q. What is that a photograph of?

23 A. Of my car.

24 Q. And I want to show you United States Exhibit -- I'm
25 sorry.

1 So is that the car you were driving that night?

2 A. Yes.

3 Q. Now, you said that you saw one of the occupants of the
4 car that stopped at you -- next to you at the stoplight
5 wearing a Yankees hat. Was there someone that you knew that
6 wore a Yankees hat often?

7 A. Yes.

8 Q. Who is that?

9 A. Peluche.

10 Q. I want to show you United States Exhibit 1266.

11 Do you recognize that person?

12 A. Yes.

13 Q. Who is that?

14 A. Peluche.

15 Q. After this shooting, did you leave Tennessee?

16 A. Yes.

17 Q. Why?

18 A. Because I didn't want any problems.

19 Q. Were you scared?

20 A. Yes.

21 Q. Who did you go to Miami with?

22 A. With Hansy.

23 Q. And anyone else?

24 A. No, just him.

25 Q. How long did you stay in Miami?

1 A. Like a week or ten days.

2 Q. And did you come back to Tennessee after that week?

3 A. Yes.

4 Q. Why did you come back to Tennessee?

5 A. Because they told me I had to move the car where I had
6 it parked.

7 Q. Was that in the apartment complex where you parked at?

8 A. Yes.

9 Q. So did you come back to move the car?

10 A. Yes.

11 Q. Who did you go with to move the car?

12 A. With Hansy and Chamaco.

13 Q. Whose car were you driving that day to go move your
14 Scion?

15 A. With Hansy and Chamaco.

16 Q. No, my question was who -- you were in a different car
17 than your Scion; is that right?

18 A. Yes.

19 Q. Do you remember whose car you were in?

20 A. No, I don't remember.

21 Q. So what happened when you went to move your car?

22 A. Well, some cars were waiting for me there.

23 Q. And who was supposed to drive your car away from the
24 apartment complex?

25 A. Would you repeat again?

1 Q. I'm sorry. Yeah, let me rephrase.

2 Who was supposed to drive your Scion that was parked
3 at the apartment complex away from there?

4 A. Well, any one of us three were going to take it:
5 myself, Hansy, or Chamaco.

6 Q. Who decided to take it?

7 A. Hansy.

8 Q. So did you drop Hansy off at the Scion?

9 A. Yes.

10 Q. What happened then?

11 A. Well, the lights of some cars were turned on, and they
12 started to yell.

13 Q. And then what happened?

14 A. They started to follow us to shoot at us.

15 Q. Could you see any of those -- did you recognize any of
16 the people at those cars?

17 A. Yes.

18 Q. Who?

19 A. La Cabeza.

20 Q. And could you see the guns?

21 A. Well, I just saw him that he was wearing a ski mask,
22 and a long gun.

23 Q. And what did you do when you saw that?

24 A. Well, I started to drive to get away from there, but
25 they started to follow us, shooting at us.

1 Q. Could you see where Hansy was?

2 A. He was also coming out as well.

3 Q. Was he behind you or in front of you?

4 A. We left at the same time.

5 Q. And as you drove away, could you see what happened to
6 the car Hansy was in?

7 A. Yes. They were shooting, and it stopped for a moment.

8 Q. And where did you go?

9 A. To a McDonald's.

10 Q. Did you -- are you and Hansy still friends?

11 A. Yes.

12 Q. Did you learn that Hansy had been shot?

13 A. Yes.

14 Q. Did you continue selling drugs after this?

15 A. No.

16 Q. Has this -- have these incidents impacted your life?

17 A. Yes.

18 Q. How so?

19 A. What do you mean, how so?

20 Q. How have things changed for you since this incident?

21 A. I do not know how to explain it.

22 Q. Okay. When you say you don't know how to explain it,
23 what do you mean by that? Can you try?

24 A. Well, I don't know how to . . .

25 **MR. HOFF:** I don't have any further questions,

1 Your Honor.

2 **THE COURT:** All right. Thank you.

3 **MR. GANGULI:** No questions, Your Honor.

4 **THE COURT:** Thank you, sir.

5 **MR. LUCAS:** No questions, Your Honor.

6 **THE COURT:** Thank you.

7 **MR. BLOOM:** No questions, Your Honor.

8 **THE COURT:** All right. Thank you.

9 Okay. You may step down, sir.

10 (The witness stepped down.)

11 **THE COURT:** All right. The government may call
12 its next witness.

13 **MR. SAFEEULLAH:** The United States calls James
14 King.

15 **THE COURT:** All right.

16 (The witness was sworn.)

17 * * *

18 **JAMES KING,**
19 **was called as a witness, and after having been first duly**
20 **sworn, testified as follows:**

21 **DIRECT EXAMINATION**

22 **QUESTIONS BY MR. SAFEEULLAH:**

23 Q. Good morning.

24 A. Good morning.

25 Q. Can you please state your name and spell your last

1 name for the record.

2 A. Yeah. James King. Last name, K-I-N-G.

3 Q. Where are you presently employed?

4 A. Employed with the Metro Nashville Police Department on
5 the interdiction unit as an investigator.

6 Q. And how long have you been employed by the Metro
7 Nashville Police Department?

8 A. 23 years.

9 Q. What do you do as an investigator in the interdiction
10 unit?

11 A. We investigate narcotics-related crimes, tips that
12 come in through Crime Stoppers. We work with freight
13 companies such as UPS, FedEx, and the United States Postal
14 Service. We also work in collaboration on cases with TBI
15 and DEA. And we also work with the cooperation of citizen
16 informants or confidential informants.

17 Q. Were you working in this role in 2018?

18 A. In 2018, I was assigned to the Metro Police
19 Department's major case task force.

20 Q. And what were you doing with that unit or division?

21 A. It was very similar. We were investigating
22 upper-level narcotics organizations within Davidson County,
23 Nashville-Davidson County, and in other jurisdictions with
24 the assistance of DEA and TBI.

25 Q. In the summer of 2018, did you conduct several

1 controlled buys from Jason Sandoval?

2 A. Yes, I did. There was three buys that we conducted.

3 Q. Can you explain to us what a controlled buy is?

4 A. Yeah. On this specific incident, a controlled buy is
5 where we would --

6 Q. In general, and then we'll get more specific later.

7 A. It's where we would use a -- what we call a
8 confidential informant, and that's someone that works not
9 for the police department, but signs up paperwork saying
10 that they are cooperating. A lot of these work with us to
11 either assist with charges where they've been charged, or
12 some of them work with us for -- to get paid U.S. currency.

13 Q. And how is the process? How do you go about doing a
14 controlled buy or controlled purchase?

15 A. So that individual would be under our direction; in
16 this instance, would be under my direction. Information
17 would be given to me as to whom this person could maybe make
18 a purchase of drugs from, and we would meet up with this
19 individual at a secure predetermined location that would be
20 set by me.

21 And I would meet with other detectives on my unit. We
22 would meet up with this person. A search of this person
23 would be conducted, their person. A thorough search of
24 their person and their vehicle would be conducted. And then
25 we would set up what we call a controlled phone call, which,

1 this phone call would be monitored from an electronic
2 monitoring device that we have. A phone call would be made
3 to the individual that they allege they could purchase
4 narcotics from.

5 Q. And once you have that agreement that they can conduct
6 this transaction, what happens next?

7 A. The informant would be equipped with previously
8 photocopied buy money. That means it's regular U.S.
9 currency that's ran through a machine and the serial numbers
10 would be copied.

11 Once the informant is supplied with U.S. currency,
12 then a phone call would be made to set up this transaction.
13 We would find out how much money that the -- whatever we're
14 buying would cost, and then we would give the informant that
15 amount of money to purchase the drugs.

16 Q. Do you also give the informant recording devices?

17 A. There is a monitoring device that would be with the
18 informant at all times. And that's for us to monitor
19 listening and for location purposes to know where they're at
20 at all times and for safety purposes.

21 Q. So when the informant has the photocopied buy money
22 and the recording equipment, what's the next step? The
23 transaction has already been scheduled. What's the next
24 step? What happens next?

25 A. Once the location has been determined, then that

1 informant will be followed to the location where the deal
2 has been set. And usually that's determined by the person
3 selling the drugs. So once we get the location where the
4 informant is going to go to purchase the drugs, then we
5 would have other detectives in the area doing surveillance,
6 taking photos.

7 Q. Do you-all watch the transaction and/or listen to the
8 transaction as it takes place?

9 A. Yes, we do.

10 Q. All right. Now I want to talk about this case. On
11 May 23rd, 2018, on June 1st, 2018, and June 19th, 2018, did
12 you and other officers conduct controlled purchases?

13 A. Yes, we did.

14 Q. Who were you buying drugs from?

15 A. Jason Sandoval.

16 Q. And what type of drugs were you-all buying?

17 A. We were buying cocaine.

18 Q. And did you watch or listen to the transactions on
19 these dates?

20 A. Yes, sir.

21 Q. And what did you see or hear?

22 A. A narcotics transaction being conducted between the
23 confidential informant and Mr. Jason Sandoval.

24 Q. And that was on three separate occasions?

25 A. Yes, sir.

1 Q. What happened after the informant bought the cocaine
2 from Mr. Sandoval on those three occasions?

3 A. The informant was directed to meet at a predetermined
4 secure location. Once the informant would pull up to the
5 location, there would be several detectives there. That
6 informant would be searched again thoroughly, person and
7 vehicle, and the narcotics purchased would be recovered and
8 eventually turned in to the Metro Police Department's
9 property room.

10 Q. Before you turn the cocaine in to the property room,
11 do you do anything with that cocaine?

12 A. Yes, sir. We are supplied with what's called a field
13 test. And it's a plastic little container that you place a
14 small amount of the cocaine in. And you pop a couple vials
15 inside, and you shake it up, agitate it. And if it turns
16 blue, that is a positive test for the presence of cocaine.

17 Q. Did you conduct a field test on the cocaine that was
18 purchased from Jason Sandoval on the three times that you
19 purchased or had the informant purchase cocaine from him?

20 A. Yes, sir. The substance was field-tested on all three
21 separate incidences, and it did field test positive for the
22 presence of cocaine.

23 Q. And where did you say the cocaine went after it was
24 field-tested and it was determined the field test showed
25 positive for cocaine?

1 A. Yes, sir. That substance would be bagged up, placed
2 into evidence bags, and then turned in to the Metro property
3 lab.

4 **MR. SAFEEULLAH:** Your Honor, may I approach this
5 witness?

6 **THE COURT:** You may.

7 **BY MR. SAFEEULLAH:**

8 Q. Can you look at those three exhibits that's been
9 passed up to you? I believe they're
10 United States Exhibit Nos. 150, 151, and 152.

11 A. Yes, sir. So 150 appears to be two ounces of cocaine
12 which would be consistent with our first purchase of
13 cocaine.

14 Q. And what is 151?

15 A. Looking at 151, appears to be a plastic bag containing
16 three separate ounces of cocaine which would be consistent
17 with our second purchase of cocaine.

18 Q. And can you tell me what is in
19 United States Exhibit 152?

20 A. Yes, sir. Items in 152 appear to be consistent with
21 three separate bags of cocaine which is consistent to Buy
22 No. 3 which would be three ounces of cocaine.

23 **MR. SAFEEULLAH:** Your Honor, at this point, I
24 move to admit into evidence United States Exhibits 150, 151,
25 152, and request permission to publish them to the jury.

1 **THE COURT:** All right. Absent objection,
2 Government Exhibits 150, 151, and 152 will be admitted, and
3 they may be published.

4 (Government Exhibits 150 through 152 were marked
5 and admitted into evidence.)

6 **MR. SAFEEULLAH:** And, Your Honor, if the jury
7 could be passed those. I'm going to read a stipulation
8 here, and as I set up, the jury can look at this.

9 **THE COURT:** All right. They may be passed.

10 (Respite.)

11 **MR. SAFEEULLAH:** Your Honor, may I read the
12 parties' stipulation into the record?

13 **THE COURT:** You may.

14 Tell you what. If counsel want to approach real
15 quick. I had one question.

16 (WHEREUPON, a bench conference was had out of the
17 hearing of the jury, as follows:)

18 **THE COURT:** It occurs to me the stipulation
19 refers to gross weight. Anyone want to explain to the
20 jurors what you mean by that? In fact, I'm not even sure I
21 know what that means, gross versus net, in this context.
22 The gross weight, do you know what that means?

23 **MR. SAFEEULLAH:** Gross is the total sum of the
24 packaging that the lab tech would have as opposed to the net
25 weight, so it's everything that she put in there together as

1 opposed to a smaller portion. I believe it includes
2 everything.

3 **THE COURT:** But not the packaging, right?

4 **MR. SAFEEULLAH:** I would have to go back and look
5 at the --

6 **MR. LUCAS:** So the only question I have on that
7 is, I always thought net weight had to do with the actual
8 controlling substance within the drug, within whatever you
9 get, so the gross weight is everything, right, --

10 **MR. SAFEEULLAH:** Yeah.

11 **MR. LUCAS:** -- like you said?

12 But then the net weight is what -- the actual
13 controlled substance because, you know, it has all kinds
14 of --

15 **THE COURT:** See, that's one possible
16 interpretation, but I'm not sure that's universal. I'm not
17 sure if there's even a universal notion of gross weight. So
18 I think everyone agreed to this, that's fine. I'll just put
19 it out there. If anyone -- I'm just always a little bit
20 apprehensive about throwing out terms to the jury that
21 doesn't -- you know, maybe we don't even know what they
22 mean.

23 **MR. LUCAS:** The big issue is that -- you know,
24 sort of following your line, I guess the big issue is
25 ultimately, that might become an issue as to whether or not

1 they understood what gross weight was versus net weight.

2 **THE COURT:** Yeah, right. So I think that's
3 right. I mean, I understand that the thrust of this is
4 that, well, they're controlled purchases of cocaine. I just
5 put that out there in case anyone wants to do anything to
6 firm up what that means. I'm not going to require it. The
7 government, you know, can put on the evidence it wants, the
8 parties can stipulate to what they want.

9 I just flag it as, you know, if I haven't made it
10 clear already, I like to spoon-feed concepts to the jury
11 just so they are as clear as possible.

12 So I'll leave that there, and if anyone wants to
13 follow up on that, they can. But we'll leave it there, but
14 I think it's something worth just kind of keeping in mind.

15 All right. Thank you.

16 **IN UNISON:** Thank you.

17 (WHEREUPON, the bench conference concluded, and
18 the following took place within the presence and hearing of
19 the jury:)

20 **THE COURT:** All right. Mr. Safeeullah, you may
21 proceed.

22 **MR. SAFEEULLAH:** "It is hereby stipulated and
23 agreed among the parties that:

24 "On May 23rd, 2018, Metro Nashville Police
25 Department, MNPDP, officers lawfully seized the controlled

1 substances admitted as United States Exhibit 150.

2 "On June 1st, 2018, MNPDP officers lawfully seized
3 the controlled substances admitted as United States
4 Exhibit 151.

5 "On June 19th, 2018, MNPDP officers lawfully
6 seized the controlled substances admitted as United States
7 Exhibit 152.

8 "A proper chain of custody was maintained until
9 the controlled substances were submitted to the MNPDP crime
10 laboratory for analysis.

11 "The controlled substances admitted as
12 United States Exhibit Nos. 150, 151, and 152, were tested by
13 forensic chemist Sharon Tilley of the Metro Nashville Police
14 Department Crime Laboratory using appropriate testing
15 procedures.

16 "Ms. Tilley examined United States Exhibit 150
17 and determined that the substance in this exhibit contained
18 cocaine, a Schedule II controlled substance with a total
19 gross weight of approximately 57.71 grams.

20 "Ms. Tilley examined United States Exhibit 151
21 and determined that the substance in this exhibit contained
22 cocaine, a Schedule II controlled substance, of a total
23 gross weight of approximately 84.69 grams.

24 "Ms. Tilley examined United States Exhibit 152
25 and determined that the substance in this Exhibit contained

1 cocaine, a Schedule II controlled substance, with a total
2 gross weight of approximately 86.78 grams.

3 "It is so stipulated."

4 And this is United States Exhibit 1338, and the
5 United States would move to admit this exhibit into
6 evidence.

7 **THE COURT:** All right. Absent objection,
8 Government Exhibit 1338 is admitted.

9 (Government Exhibit 1338 was marked and admitted
10 into evidence.)

11 **THE COURT:** All right. Mr. Safeeullah, you may
12 proceed.

13 **MR. SAFEEULLAH:** I do not have any additional
14 questions for this witness.

15 **THE COURT:** All right. Thank you.

16 Mr. Ganguli?

17 **MR. GANGULI:** Thank you, Your Honor. Very
18 briefly.

19 **CROSS-EXAMINATION**

20 **QUESTIONS BY MR. GANGULI:**

21 Q. Is it Sergeant King?

22 A. No, it's Detective King.

23 Q. Detective King. All right. With respect to the
24 amounts that we discussed a few moments ago, are you
25 familiar with the term "gross weight"?

1 A. Yes, sir.

2 Q. Could you please tell us -- and, in fact, are you
3 familiar with the concept of "net weight"?

4 A. Yes, sir.

5 Q. Could you please tell us the difference between gross
6 weight versus net weight when a controlled substance is
7 weighed?

8 A. I believe the terminology that you are referring to as
9 far as gross weight would be the narcotics within the
10 plastic bag. And then the net weight would be the narcotics
11 if they were out of the bag on a scale.

12 Q. Okay.

13 A. I believe that's what you're referring to.

14 Q. Yes, sir.

15 Do you personally weigh the narcotics, or is that
16 someone else who does that?

17 A. Typically, if we weigh the narcotics, we would leave
18 the narcotics within the plastic bag just for safety
19 purposes.

20 Q. Yes, sir. Thank you.

21 **MR. GANGULI:** No further questions, Your Honor.

22 **THE COURT:** All right. Thank you, Mr. Ganguli.

23 **MR. LUCAS:** Your Honor, I just have one question.

24 **THE COURT:** Yes, sir.

25 ///

CROSS-EXAMINATION**QUESTIONS BY MR. LUCAS:**

Q. Good afternoon, Detective King.

Just have one question for you in regards to Mr. Sandoval. Did you -- you didn't know what -- you don't know what Mr. Sandoval did with the proceeds of that sale, do you?

A. No, sir.

Q. And you don't know where Mr. Sandoval obtained the drugs?

A. No, sir.

MR. LUCAS: That's all, Your Honor.

THE COURT: Thank you. Mr. Bloom?

MR. BLOOM: No questions, Your Honor.

THE COURT: All right. Thank you. Any redirect examination?

MR. SAFEEULLAH: No, Your Honor.

THE COURT: All right. Thank you, Detective King. You may step down.

(The witness stepped down.)

THE COURT: All right. Mr. Safeeullah, do you anticipate the next witness being a brief one or perhaps a little more extended?

MR. SAFEEULLAH: He may be brief, Your Honor. But I think we've got a video in there, and it calls for the

1 admission of a video that the jury would watch, so I was
2 going to ask Your Honor whether you thought this would be an
3 appropriate time to take a lunch break and then we just
4 start with him after the lunch break.

5 **THE COURT:** All right. Sounds like that would be
6 appropriate under the circumstances. You can get prepared
7 for the next examination.

8 So, folks, we will take our break now, and if you
9 could be back by, we'll say, 1:05, we will pick up from
10 there. The jurors may step down. And please remember my
11 usual admonition: no talking about the case, researching, or
12 investigating. Thank you.

13 (WHEREUPON, the jury was excused from the
14 courtroom at 12:08 p.m., with matters being heard in open
15 court as follows:)

16 **THE COURT:** All right. Anything to discuss
17 before we go on break?

18 **MR. SAFEEULLAH:** Not from the United States.

19 **THE COURT:** Thank you. Defense counsel?

20 Not seeing anything, we'll reconvene at 1:05.
21 Thanks, folks.

22 (Lunch recess 12:09 p.m. to 1:14 p.m.)

23 **THE COURT:** All right. If we could call in our
24 jurors, please.

25 (WHEREUPON, the jury re-entered the courtroom at

1 1:14 p.m., with matters being heard in open court as
2 follows:)

3 **THE COURT:** Thank you. Please be seated.

4 All right. The government, in a moment, will
5 call its next witness. Thanks, folks, for continuing your
6 service and your attention. And I anticipate we'll probably
7 go roughly close to 5:00 today, and then we'll pick back up
8 tomorrow at -- should be 9:00 a.m.

9 All right. Mr. Safeeullah, if you wish to call
10 your next witness.

11 **MR. SAFEEULLAH:** Yes, Your Honor. The United
12 States calls Santos Del-Cid.

13 **THE COURT:** All right.

14 (The witness was sworn.)

15 **MR. SAFEEULLAH:** Your Honor, may I proceed?

16 **THE COURT:** You may.

17 * * *

18 **JOSE SANTOS DEL-CID,**
19 **was called as a witness, and after having been first duly**
20 **sworn, testified through the interpreter as follows:**

21 **DIRECT EXAMINATION**

22 **QUESTIONS BY MR. SAFEEULLAH:**

23 Q. Good afternoon.

24 A. Good afternoon.

25 Q. Can you please state and spell your last name for the

1 record.

2 A. Jose Santos Del-Cid. It's J-O-S-O -- -E, sorry. And
3 Santos, S-A-N-T-O-S, and Del-Cid, D-E-L-C-I-D.

4 Q. Where are you originally from?

5 A. From El Salvador.

6 Q. In 2017, did you work at the Bola Ocho nightclub?

7 A. Yes.

8 Q. What was your role or position?

9 A. That night, I was -- I'm the owner. And that night, I
10 was somewhat putting on the music.

11 Q. And where is Bola Ocho?

12 A. At 1088 Murfreesboro Pike.

13 Q. So what does the Bola Ocho stand for?

14 A. It's like a billiards game.

15 Q. Okay. Is this a bar or a nightclub?

16 A. It's like a club and a bar. All three things are
17 somewhat combined.

18 Q. And how long have you owned or operated this bar?

19 A. I opened it starting in 2014.

20 Q. Can you look at the last binder over there and turn to
21 United States Exhibit 1246.

22 A. 1246.

23 Q. What is that picture looking at in that photograph?

24 A. It is a map where there -- this is the shopping center
25 wherein is the bar.

1 **MR. SAFEEULLAH:** Your Honor, I request permission
2 to admit into evidence United States Exhibit 1246 and
3 request permission to publish it to the jury.

4 **THE COURT:** Absent objection, Government
5 Exhibit 1246 will be admitted and may be published.

6 (Government Exhibit 1246 was marked and admitted
7 into evidence.)

8 **THE WITNESS:** Yes.

9 **BY MR. SAFEEULLAH:**

10 Q. What is the street intersection that your bar rests
11 on?

12 A. The main street is Murfreesboro. And the shopping
13 center is -- well, it's towards the inside. And the
14 building where the bar is at is the one that is closest to
15 the tall grass.

16 **MR. SAFEEULLAH:** If we could zoom in to show the
17 building.

18 **BY MR. SAFEEULLAH:**

19 Q. Can you explain to us where --

20 A. This one?

21 Q. -- the building is where your bar is located?

22 A. Well, on the very corner is the restaurant, on the
23 very corner. And the one next to it, it's the one over
24 here.

25 Q. So on the corner, you're talking about to the top of

1 the building on the left-hand side where the orange dot is?

2 A. Well, the restaurant is adjacent to the other building
3 over there, the one that has the black roof. And then
4 there's a restaurant, and then the next one over is our
5 space.

6 Q. So is it under the white roof or the black roof?

7 A. White roof.

8 Q. And on this map, it has "Delicias De El Salvador,
9 Family Friendly." Is it below the words, "Family Friendly"?

10 A. Yes. There's Delicias De El Salvador over here, and
11 right next to it -- well, you've got Delicias De El Salvador
12 which is 1086, and mine is 1088.

13 **MR. SAFEEULLAH:** Can we pull up
14 United States Exhibit 476, please.

15 **BY MR. SAFEEULLAH:**

16 Q. What is this a picture of?

17 A. That's the front of the bar.

18 Q. And this is the bar that you owned and operated on
19 May 21st, 2017?

20 A. Yes.

21 Q. Does your bar have cameras?

22 A. Yes.

23 Q. Did the bar have cameras on May 21st, 2017?

24 A. Yes.

25 Q. Where do the recordings from the cameras, where are

1 they stored?

2 A. The next day after the incident, I handed them over to
3 the detectives.

4 Q. Yes. My question is: Where are the recordings stored
5 inside of your store before you handed them over?

6 A. I did not have much knowledge as far as how to store
7 them because I don't understand much about technology. What
8 I know is that the people that installed these told me that
9 every ten days, that which was being recorded would be
10 erased.

11 Q. And are they stored on a modem?

12 A. Yes.

13 Q. And how many cameras did you have these people set up
14 at your store?

15 A. Well, I don't remember well, if it was 8 or 12
16 cameras, but it was around 8 to 12 cameras.

17 Q. Prior to today, have you had the opportunity to review
18 recordings from your store from May 21st 2017?

19 A. Yes.

20 **MR. SAFEEULLAH:** Your Honor, may I approach and
21 pass this witness United States Exhibit 461, 462, 463, 464,
22 465, 466, 467, 468, and 1336?

23 **THE COURT:** All right. You may do so. You said
24 1366?

25 **MR. SAFEEULLAH:** 36.

1 **THE COURT:** 1336. Okay. Thank you.

2 **BY MR. SAFEEULLAH:**

3 Q. Can you look at those disks in front of you?

4 A. Yes.

5 Q. Have you previously looked at those disks?

6 A. Yes.

7 Q. What is on those disks?

8 A. It's all the videos that are inside the bar while
9 others record on the outside.

10 Q. And did you initial those disks to indicate that you
11 have watched those videos?

12 A. Yes.

13 Q. And you were present at the bar on May 21st, 2017?

14 A. Yes.

15 Q. Do you see yourself on any of those videos?

16 A. Yes.

17 **MR. SAFEEULLAH:** Your Honor, I move to admit into
18 evidence and request permission to publish
19 United States Exhibits 461, 462, 463, 464, 465, 466, 467,
20 468, and 1336.

21 **THE COURT:** All right. Absent objection, the
22 following will be admitted and may be published: Government
23 Exhibits 461, 462, 463, 464, 465, 466, 467, 468, and 1336.

24 (Government Exhibits 461 through 468 and 1336
25 were marked and admitted into evidence.)

1 **MR. SAFEEULLAH:** Can we start with
2 United States Exhibit 461, please.

3 (Playing video.)

4 **BY MR. SAFEEULLAH:**

5 Q. In looking at this video, where is the front of your
6 bar? Is it to the left or to the right?

7 A. To the left.

8 **MR. SAFEEULLAH:** Okay. If we could press Play.
9 I'm sorry. I think it skipped. Could you back it up a
10 little bit?

11 (Playing video.)

12 **MR. SAFEEULLAH:** Thank you. Can we take that
13 down and play United States Exhibit 463.

14 (Playing video.)

15 **MR. SAFEEULLAH:** Can we pause this, please.

16 **BY MR. SAFEEULLAH:**

17 Q. What are we looking at in this video?

18 A. It's the inside part on the entrance.

19 Q. So this is the inside of the club where people enter
20 and exit?

21 A. Yes.

22 **MR. SAFEEULLAH:** Can we press Play, please.

23 (Playing video.)

24 **MR. SAFEEULLAH:** Thank you. Can we play
25 United States Exhibit 465, please.

1 (Playing video.)

2 MR. SAFEEULLAH: Can you pause this.

3 BY MR. SAFEEULLAH:

4 Q. What are we looking at in this video?

5 A. It's the inside where there's some pool tables and the
6 other tables where the clientele sits at.

7 MR. SAFEEULLAH: Can you press Play, please.

8 (Playing video.)

9 MR. SAFEEULLAH: I'm sorry. Can we start this
10 over again from the beginning.

11 (Playing video.)

12 MR. SAFEEULLAH: Can you pause it now.

13 BY MR. SAFEEULLAH:

14 Q. In this video, do you see a male to the right-hand
15 side of the screen that has on white shoes?

16 A. Yes.

17 MR. SAFEEULLAH: Can we press Play.

18 (Playing video.)

19 BY MR. SAFEEULLAH:

20 Q. And you watch that male.

21 A. Yes.

22 MR. SAFEEULLAH: Can we play
23 United States Exhibit 464, please.

24 (Playing video.)

25 MR. SAFEEULLAH: Can you pause the video.

1 **BY MR. SAFEEULLAH:**

2 Q. Is this -- what are we looking at in this video from
3 this camera view?

4 A. Well, that's the camera scene that captures part of
5 the bar and also where the other pool tables are at.

6 **MR. SAFEEULLAH:** Can we press Play and then pause
7 it.

8 (Playing video.)

9 **BY MR. SAFEEULLAH:**

10 Q. Do you see the male to the right-hand side of the
11 screen with the white shoes on? It looks like he's holding
12 a phone to his head.

13 A. Yes.

14 **MR. SAFEEULLAH:** Can we press Play and watch that
15 male.

16 (Playing video.)

17 **MR. SAFEEULLAH:** Can we play
18 United States Exhibit 462, please.

19 (Playing video.)

20 **BY MR. SAFEEULLAH:**

21 Q. Can you tell me what color shoes that male has on
22 that's walking?

23 A. White.

24 Q. There is a timestamp at the top of this video that
25 says May 21st, 2017, around 12:20. Is that close in time to

1 when this video was taken?

2 A. Yes.

3 **MR. SAFEEULLAH:** That video has stopped.

4 Can we pull up United States Exhibit 466.

5 And, Your Honor, just so you know, this is going
6 to be a lengthy video, a longer video.

7 **THE COURT:** All right. Thank you.

8 (Playing video.)

9 **BY MR. SAFEEULLAH:**

10 Q. Is this still outside of your bar?

11 A. Yes.

12 **MR. SAFEEULLAH:** Can we pause the video right
13 now.

14 **BY MR. SAFEEULLAH:**

15 Q. Moving from the left-hand side of the screen towards
16 the top of the screen, did you see a car back up?

17 A. Yes.

18 **MR. SAFEEULLAH:** Can we press Play and continue
19 to watch that car.

20 (Playing video.)

21 **MR. SAFEEULLAH:** Can we pause it at this point.

22 **BY MR. SAFEEULLAH:**

23 Q. Who is -- what is the individual that's closest to the
24 door entering your establishment wearing?

25 A. It's a blue shirt, white shoes. And his pants, I

1 don't know if they're black-black. And he's wearing a cap.

2 **MR. SAFEEULLAH:** Can we press Play.

3 (Playing video.)

4 **BY MR. SAFEEULLAH:**

5 Q. And you let me know if you can determine what color
6 cap he has on. If not, that's fine.

7 A. It's black.

8 Q. Does it appear that that hat has some type of emblems
9 on it that may have been golden?

10 A. Yes. It's like white, the upper part.

11 **MR. SAFEEULLAH:** Can you pause it at this point.

12 **BY MR. SAFEEULLAH:**

13 Q. Do you still see that car that has the headlights
14 turned on?

15 A. Yes.

16 **MR. SAFEEULLAH:** Can you press play.

17 (Playing video.)

18 **BY MR. SAFEEULLAH:**

19 Q. Do you see the male walking to your bar?

20 A. Yes.

21 Q. Do you know who that is?

22 A. He always came to play pool with us.

23 **MR. SAFEEULLAH:** Can you pause right now.

24 **BY MR. SAFEEULLAH:**

25 Q. Do you know what he's pointing to?

1 A. Yes. He told me that in that part over there, some
2 shots could be heard.

3 Q. Is that you in the video right now?

4 A. Yes.

5 **MR. SAFEEULLAH:** Can we press Play, please.

6 (Playing video.)

7 **BY MR. SAFEEULLAH:**

8 Q. Did you walk over to the car?

9 A. Yes.

10 Q. Did the police show up that day?

11 A. Yes.

12 **MR. SAFEEULLAH:** Can we pull up

13 United States Exhibit 1336, please.

14 (Playing video.)

15 **BY MR. SAFEEULLAH:**

16 Q. Is this another view from outside of your bar?

17 A. Yes.

18 Q. On May 21st, 2017?

19 A. Yes.

20 Q. Do you see that blinking light towards the right-hand
21 side of the screen?

22 A. Yes.

23 **MR. SAFEEULLAH:** Can we pull up

24 United States Exhibit 468, please.

25 (Playing video.)

1 **BY MR. SAFEEULLAH:**

2 Q. Is this another view of the parking lot on May 21st,
3 2017?

4 A. Yes.

5 Q. Is that car with the flashing lights moving?

6 A. No. The car is parked.

7 **MR. SAFEEULLAH:** Can we pull up
8 United States Exhibit 471, please.

9 **BY MR. SAFEEULLAH:**

10 Q. What are we looking at in this photograph?

11 A. That's the car that the victim was in.

12 Q. What did you see inside of that car when you walked
13 over there?

14 A. He was in the driver's seat and he was already
15 unconscious.

16 Q. Was he bleeding?

17 A. Yes.

18 **MR. SAFEEULLAH:** I don't have any additional
19 questions for this witness at this time.

20 **THE COURT:** All right. Yes, sir.

21 **MR. GANGULI:** Thank you, Your Honor.

22 **CROSS-EXAMINATION**

23 **QUESTIONS BY MR. GANGULI:**

24 Q. Mr. Del-Cid, I'm going to ask you a few questions. If
25 there's something that I ask you that I'm unclear about, if

1 you'll please tell me, I'll back up and I'll try to ask a
2 better question.

3 Mr. Del-Cid, did I understand you correctly that you
4 opened the Bola Ocho nightclub in 2014?

5 A. I'm not very sure if it was in 2014 or at the end of
6 2013.

7 Q. Yes, sir. We noticed that there was a lot of
8 surveillance footage that we saw. Did you install those
9 security cameras?

10 A. The company that installed it for me, they put it
11 there.

12 Q. Okay. Do you remember what year that the cameras were
13 installed?

14 A. I couldn't tell you an exact date because a long time
15 has passed, but it had been open for a couple of months when
16 I installed them.

17 Q. Is there a reason that some of the footage was in
18 black and white and other footage was in color?

19 A. I don't know. Sometimes when it's dark, it looks like
20 it comes out in black and white. But when there's light, it
21 comes out in color.

22 Q. Okay. So what you're telling us is that it's a -- the
23 cameras record in color?

24 A. Well, since I installed them, I had never reviewed the
25 videos because there had never been any need to.

1 Q. Interesting. When you looked at the footage, were
2 there times that the footage is more clear than others?

3 A. But the thing is that in some parts where the camera
4 is at, there's a lot of birds, and also some spider webs are
5 formed.

6 Q. So what you're telling us is, just so I understand
7 correctly, when the footage is grainy, it's because there's
8 spider webs and birds?

9 A. Well, when one can say it like so is that there are
10 cameras that have somewhat become detached, and when there's
11 wind, they move somewhat.

12 Q. Okay. When you've reviewed the security footage, was
13 there ever a time that there was sound on the footage?

14 A. No, not that I can remember. No.

15 Q. Okay. With respect to the security at the club, you
16 employed security guards obviously, right?

17 A. Yes.

18 Q. They would frisk people as patrons walked inside the
19 club?

20 A. Yes.

21 Q. Was that to prevent -- was that to prevent people from
22 bringing guns into the club?

23 A. Yes.

24 Q. Were there sometimes fights inside the club?

25 A. Never like so. Perhaps just arguments.

1 Q. Okay.

2 A. But nothing major.

3 Q. Yes, sir. And on May 21st, 2017, were there arguments
4 inside the club?

5 A. Not that I can remember, no.

6 Q. Okay. Did you allow drug sales inside your club?

7 A. No.

8 Q. Were you aware the drug sales were happening inside
9 your club?

10 A. Well, yes, there are many who do it. I don't know how
11 but they always do it.

12 Q. Okay. As to the shooting itself, did you see it?

13 A. No.

14 Q. So is it fair to say that you don't know who shot
15 Ammerli Garcia-Munoz?

16 **THE INTERPRETER:** I'm sorry. The interpreter
17 requests repetition of the name. Ammerli Garcia-Munoz?

18 **THE WITNESS:** Not until now, that now I have seen
19 the video already.

20 **BY MR. GANGULI:**

21 Q. Okay. But the video itself doesn't show the shooting,
22 does it?

23 A. But it was the only car that stopped in front of him,
24 and all of us went to see, and that had occurred.

25 Q. So what you're saying is that you saw a person get

1 shot on the videos that we just saw?

2 A. I have not said that. What I said is that we went
3 over there seconds after it occurred, and it was the only
4 car that had been at the bar.

5 Q. I understand.

6 Is there any more video footage that would show the
7 shooting?

8 A. Not that I know of.

9 Q. And you would know, right?

10 A. How so?

11 Q. I'll back up. You were the owner of Bola Ocho, right?

12 A. Yes.

13 Q. It was your responsibility to have security and
14 surveillance footage from that club, right?

15 A. Yes.

16 Q. You provided what footage you had to the United
17 States, right?

18 A. Yes.

19 Q. You provided to them all the footage you had, right?

20 A. Correct.

21 Q. In all the footage that you provided to the United
22 States, that -- that does not show the shooting itself, does
23 it?

24 A. It cannot be -- it cannot be seen clearly but . . .

25 Q. Is there more footage? It's a yes-or-no question.

1 A. I don't know. I turned it all in.

2 Q. Thank you.

3 MR. GANGULI: Your Honor, may I have a moment to
4 speak with Mr. Gulotta?

5 THE COURT: You may.

6 (Respite.)

7 MR. GANGULI: Your Honor, I'll pass the witness.

8 THE COURT: All right. Thank you, Mr. Ganguli.

9 Ms. Hood-Schneider?

10 MS. HOOD-SCHNEIDER: No questions for this
11 witness.

12 THE COURT: Thank you.

13 Mr. Bloom?

14 MR. BLOOM: No questions, Your Honor.

15 THE COURT: All right. Mr. Del-Cid you may --
16 oh, any redirect?

17 MR. SAFEEULLAH: Just very briefly.

18 THE COURT: Okay.

19 REDIRECT EXAMINATION

20 QUESTIONS BY MR. SAFEEULLAH:

21 Q. The security that you hire, they search people before
22 they come into the nightclub or the establishment?

23 A. Yes, but sometimes they do not do it. I do not know
24 why.

25 Q. And they're looking for firearms and weapons?

1 A. Firearms, blades, everything.

2 Q. Do they search cars in the parking lot?

3 A. No.

4 Q. So someone could keep a firearm in their car?

5 A. Yes.

6 **MR. SAFEEULLAH:** No further questions, Your
7 Honor.

8 **THE COURT:** All right. Mr. Del-Cid, you may step
9 down at this time. Thanks very much.

10 (The witness stepped down.)

11 **THE WITNESS:** May I go or must I remain here?

12 **THE COURT:** You are free to go. Thank you.

13 **MS. FARZAD:** Your Honor, at this time, the
14 government calls Cindy Hernandez to the stand.

15 **THE COURT:** All right. She may come forward.

16 (The witness was sworn.)

17 * * *

18 **CINDY HERNANDEZ,**
19 **was called as a witness, and after having been first duly**
20 **sworn, testified as follows:**

21 **DIRECT EXAMINATION**

22 **QUESTIONS BY MS. FARZAD:**

23 Q. Good afternoon. Can you please state and spell your
24 name for the record.

25 A. Cindy Hernandez. C-I-N-D-Y, H-E-R-N-A-N-D-E-Z.

1 Q. How old are you, Ms. Hernandez?

2 A. 31.

3 Q. Where were you born?

4 A. New Jersey.

5 Q. And how far did you go in school?

6 A. Eleventh grade.

7 Q. Where did you go to high school?

8 A. Antioch High.

9 Q. And you can move the microphone closer to you if it's
10 easier. Do you live here in Tennessee?

11 A. Yes.

12 Q. Okay. I'd like to first start by asking you, do you
13 want to be here today?

14 A. No.

15 Q. Why not?

16 A. Because I don't have nothing to do with this.

17 Q. Okay. And when the agent reached out to you to speak
18 with you to schedule you a time to come and prep for this
19 trial, what did you say to him?

20 A. That why did I have to do that, that this has nothing
21 to do with me. I've been running from this for almost seven
22 years. I even ran from my probation because of that.

23 Q. Why is that?

24 A. Because I don't want nothing to do with this.

25 Q. Okay. I'd like to take you back to 2016, 2017. Do

1 you remember in -- excuse me -- June 28th of 2017, did you
2 get arrested on that day?

3 A. Yes.

4 Q. And what were you arrested for?

5 A. Violation probation.

6 Q. Okay. Do you recall speaking to law enforcement that
7 day?

8 A. Yes.

9 Q. Why did you speak to law enforcement that day?

10 A. Because they been looking for me to question me about
11 what happened in Bola Ocho.

12 Q. Okay. And did they -- did they question you about
13 what happened in Bola Ocho?

14 A. Yes.

15 Q. All right. Before we get into what they asked you
16 about and what happened at Bola Ocho, I'd like to show you
17 some photographs.

18 **MS. FARZAD:** Can you pull up, please, Government
19 Exhibit 1266.

20 **BY MS. FARZAD:**

21 Q. Do you recognize this individual?

22 A. Yes.

23 Q. Who is this?

24 A. Jorge Flores.

25 Q. How do you know him?

1 A. I met him through a friend.

2 Q. Okay. Does he go by any nicknames?

3 A. Yeah.

4 Q. What nickname?

5 A. Peluche.

6 Q. How long have you known him?

7 A. Not that long. I met him 2016, 2017.

8 Q. Okay. Were you friendly with him?

9 A. Yeah. I mean, we talked. I mean, I'm not going to
10 say he's my friend and I'm not his friend either, but we
11 know each other.

12 Q. Okay. Do you see that person, Peluche or Jorge
13 Flores, in the courtroom today?

14 A. Yes.

15 Q. Can you identify him by an item of clothing that he's
16 wearing?

17 A. Baby blue shirt.

18 Q. And is he located to the left of me?

19 A. Yes.

20 **MS. FARZAD:** Let the record reflect, Your Honor,
21 that the witness has identified Jorge Flores.

22 **THE COURT:** All right. The record will so
23 reflect.

24 **MS. FARZAD:** If we can please take a look at
25 Government Exhibit 1278.

1 **BY MS. FARZAD:**

2 Q. Who is this man?

3 A. Kevin.

4 Q. Do you know his last name?

5 A. Tidwell.

6 Q. And what nickname does he go by?

7 A. Miklo.

8 Q. How do you know Kevin Tidwell?

9 A. I met him in the streets.

10 Q. About how long ago did you meet Kevin Tidwell?

11 A. A while ago.

12 Q. Was it before you had met Jorge Flores?

13 A. Yeah, way before then.

14 Q. Okay. And do you see him in the courtroom today?

15 A. Yes.

16 Q. Can you please describe him for the jury with an
17 article of clothing that he's wearing?

18 A. Gray or tan shirt.

19 Q. Okay. Is he to the left of me?

20 A. Yes.

21 **MS. FARZAD:** Let the record reflect that the
22 witness has identified Kevin Tidwell.

23 **THE COURT:** Absent objection, it will so reflect.

24 **MS. FARZAD:** Could we please take a look at
25 Government Exhibit 1274.

1 **BY MS. FARZAD:**

2 Q. Who is this?

3 A. That's Demente.

4 Q. Do you know Demente's legal name?

5 A. I can't think about it right now.

6 Q. Okay. How do you know Demente?

7 A. I met him in the streets too.

8 Q. Okay. And did you know him back in 2016?

9 A. Yes.

10 Q. Do you see Demente in the courtroom today?

11 A. Yes.

12 Q. Can you describe what he's wearing?

13 A. White shirt.

14 Q. Is he to the left of me?

15 A. Yes.

16 **MS. FARZAD:** Let the record reflect that the
17 witness has identified Jose Pineda or Demente.

18 **THE COURT:** All right. Absent objection, it will
19 so reflect.

20 **BY MS. FARZAD:**

21 Q. Okay. All three of these men, do you know if they
22 were members of a gang?

23 A. I mean, everybody knows that.

24 Q. Okay. Well, what gang did you know them to be members
25 of?

1 A. MS-13.

2 MS. FARZAD: Okay. I'd like to take a look at
3 Government Exhibit 1280.

4 (Discussion off the record.)

5 BY MS. FARZAD:

6 Q. Okay. Who is this man?

7 A. It's Hector.

8 Q. Okay. And did he have a nickname?

9 A. Chamaco.

10 Q. How do you know Chamaco?

11 A. I used to date him.

12 Q. What time period did you date Chamaco?

13 A. I don't remember. It was around that time.

14 Q. Okay. And are you still in a relationship with him?

15 A. No.

16 Q. Okay. All right. I'd like to direct your attention
17 to May 21st, 2017. Did you know someone who was murdered
18 that night?

19 A. Yeah. Flaco.

20 Q. Okay. Did you know anyone who was related to Flaco?

21 A. His brother.

22 Q. And what did you call his brother?

23 A. Pelon.

24 Q. If you could, there should be a binder over there, and
25 it should be marked Government Exhibits 1127 to 1328. It's

1 probably the furthest one away from you.

2 A. This one? 1127, 1328?

3 Q. Yes. Thank you so much.

4 Ms. Hernandez, could you turn, please, to Tab 1288.

5 A. Yeah.

6 Q. Do you recognize that?

7 A. That's Flaco.

8 Q. Is that a photograph of Flaco?

9 A. Yeah.

10 **MS. FARZAD:** Your Honor, at this time, the
11 government moves to admit into evidence Government
12 Exhibit 1288 with permission to publish to the jury.

13 **THE COURT:** Absent objection, it will be
14 admitted, 1288, and may be published.

15 (Government Exhibit 1288 was marked and admitted
16 into evidence.)

17 **MS. FARZAD:** If we could show 1288, please.

18 Seems like we're having technical difficulties.

19 You know what? I think it's right here. I can
20 put it up on the Elmo. Just a moment.

21 **BY MS. FARZAD:**

22 Q. All right. All right. Ms. Hernandez, who is in this
23 photograph?

24 A. That's Flaco.

25 Q. Okay. And is that the person who was murdered at Bola

1 Ocho on May 21st?

2 A. Yes.

3 Q. You said "yes"?

4 A. Yes.

5 Q. Okay. How did you know him?

6 A. Through Pelon.

7 Q. Okay. What was he like?

8 A. He was nice. I mean, I didn't really "know him" know
9 him, but what I've seen, he was a nice person.

10 Q. Do you know if he was a member of any gang?

11 A. Not that I know of. It's not my business either. I
12 didn't care.

13 Q. Okay. All right. So earlier in the evening before
14 the murder, I think you testified you were at Bola Ocho?

15 A. (Nodding head affirmatively.)

16 Q. Okay. What were you doing there that night?

17 A. Drinking, chilling.

18 Q. Who were you there with?

19 A. My friend.

20 Q. What was her name?

21 A. Adriana.

22 Q. Were you using drugs that night?

23 A. Yes.

24 Q. Okay. What kind of drugs were you using?

25 A. Pills, coke, weed.

1 Q. Were you high?

2 A. Yes.

3 Q. Even though you were high, do you remember the events
4 that night?

5 A. Yeah. I mean, I'm a functioning addict. I've always
6 been an addict.

7 Q. Are you still an addict?

8 A. Not at this moment, no. I've been clean 60 months.

9 Q. That's great.

10 So take me back to when you're standing in the
11 Bola Ocho. Do you recall at any point in time someone
12 walking in who you knew?

13 A. Yeah.

14 Q. Who was that?

15 A. Miklo, Kevin Tidwell. He was there because he was
16 going to sell me some Xanax bars.

17 Q. I'm sorry. What did you say?

18 A. Xanax bars.

19 Q. Okay. All right. And how did you know -- is there
20 anything distinctive about Kevin Tidwell in his appearance
21 that helps you know who he is?

22 A. He was wearing all blue.

23 Q. Okay. But how are you able to recognize Kevin
24 Tidwell?

25 A. Because he's the only white boy in a Hispanic bar.

1 What do you mean?

2 Q. That's fine. I was -- you've answered my question.

3 So once Kevin Tidwell came into the bar that night,
4 what did he do?

5 A. He came up to me and my home girl. He gave me a hug
6 and a kiss. That's it.

7 Q. And then what happened?

8 A. I got the bars from him.

9 Q. Okay. Did you stay inside the bar --

10 A. No, I asked --

11 (Reporter clarification.)

12 **THE WITNESS:** Me and my home girl asked him for a
13 cigarette, and he said that he didn't have it on him, that
14 it was in the car. So we walked to the car.

15 **BY MS. FARZAD:**

16 Q. And where was his car parked?

17 A. To the right.

18 Q. Okay. What kind of car was he driving?

19 A. It was a Honda.

20 Q. Okay. And who was in the car?

21 A. There was a little boy in the back. I don't know --
22 he wasn't a little boy, but, you know. And then Jorge was
23 in the passenger side.

24 Q. And did you know who the person was in the back seat?

25 A. No.

1 Q. But you knew who Jorge Flores was; is that right?

2 A. Yeah, I know him.

3 Q. Did you speak to Jorge Flores that night?

4 A. Yeah. Just said what's up.

5 Q. What was Jorge Flores doing when you walked out and he
6 was sitting in the car?

7 A. Just sitting there quiet-looking.

8 Q. Did -- what was -- was there anything different about
9 the way Jorge Flores was acting that night?

10 A. I mean, he was just quiet.

11 Q. Is he normally quiet when you see him?

12 A. No, he would always speak to me.

13 Q. But that night, he didn't say much?

14 A. No.

15 Q. The boy in the back, did he say anything at all?

16 A. No, not to me. I didn't know him. I don't know him.

17 Q. Do you remember Kevin Tidwell saying anything to the
18 boy in the back?

19 A. Yeah. He said something about a gun, but I thought he
20 was just playing.

21 Q. Do you remember what he said about the gun?

22 A. Something about get a gun, and -- but I never saw a
23 gun.

24 Q. Okay.

25 A. I never saw it. I thought he was just talking shit.

1 Q. After he said -- Kevin Tidwell said something about
2 get a gun, what did the boy in the back do?

3 A. He got out the car and went to the back. But I didn't
4 see a gun. I didn't see it.

5 Q. Were you able to see behind the car where the boy --

6 A. No. I didn't care either, so -- to be honest. I
7 mean . . .

8 Q. What did the boy do after he went to the back of the
9 car?

10 A. Just went there, and then he got in the car again.

11 Q. Okay. And what happened at that point?

12 A. I just went back inside.

13 Q. Did you see Kevin Tidwell get back into the vehicle?

14 A. No, I don't remember. I think I was already by the
15 door. I wasn't paying attention.

16 Q. Okay. All right. Once you got back inside --

17 **MS. FARZAD:** Well, I want to go ahead and if we
18 could pull up, please, Government Exhibit 462, please.

19 (Playing video.)

20 **BY MS. FARZAD:**

21 Q. Do you recognize this scene here?

22 A. Yeah. That's in front of Bola Ocho.

23 Q. Who do we see?

24 **MS. FARZAD:** If you could pause just for one
25 second.

1 **BY MS. FARZAD:**

2 Q. In the upper left-hand corner, who do we see here?

3 A. That's Kevin, that's my friend, that's me.

4 Q. Okay. All right. And what are you guys doing? Why
5 did you go outside?

6 A. Trying to get the cigarette.

7 **MS. FARZAD:** Can we go ahead and play, please.

8 (Playing video.)

9 **BY MS. FARZAD:**

10 Q. Where are you going here?

11 A. To get the cigarette.

12 Q. And which direction is this from Bola Ocho as you walk
13 out? Is it to the left or to the right?

14 A. To the right.

15 Q. And what was over to the right?

16 A. I don't remember what it was. I think it was -- no,
17 the laundromat's more ahead. I don't know what it was.

18 (Playing video.)

19 **BY MS. FARZAD:**

20 Q. And while we're off -- you're off camera here, do you
21 know what -- where you are at this point, what you're doing?

22 A. Yeah. Getting the cigarette.

23 Q. Are you by the car?

24 A. Yeah. Probably just talking shit.

25 Q. Okay. And what do we see here?

1 A. Just coming back inside.

2 Q. And you're still talking to them?

3 A. Yeah. Got the cigarette in my hand.

4 Q. And where are you going here?

5 A. Inside.

6 Q. Thank you.

7 MS. FARZAD: Now, if we could play Government
8 Exhibit 466. If possible, if you could skip ahead to
9 3 minutes and 40 seconds.

10 (Playing video.)

11 BY MS. FARZAD:

12 Q. Okay. What do you see here?

13 A. I was standing outside.

14 Q. Okay. Is that you -- is this a different angle of you
15 and your friend and Kevin Tidwell?

16 A. (Nodding head affirmatively.)

17 Q. And can you point out the vehicle that Jorge Flores
18 and Kevin Tidwell and the boy were in, in this scene here?

19 A. The one that got the lights on.

20 Q. Okay. And what you just testified about the boy
21 getting out and going to the back of the car and Jorge
22 Flores sitting in the front seat, is this all happening in
23 this video here? And I know we can't see what's happening
24 in the car, but this is the time that this occurred; is that
25 right?

1 A. Well, yeah, that's the time that they were there, the
2 only time.

3 Q. Okay. And what are you doing here?

4 A. Walking back inside. Or -- yeah.

5 Q. Are these doors in the club, are they dark? Is it
6 easy for you to see through them?

7 A. No, you can't see through them.

8 Q. So once you're back inside the club, can you see
9 outside?

10 A. No.

11 **MS. FARZAD:** We can go ahead and stop it there,
12 please. Thank you.

13 **BY MS. FARZAD:**

14 Q. So once you go back inside the club, what happens
15 next?

16 A. I was over by the deejay. I was charging my phone. I
17 was actually texting. And then one of the security guards
18 said, "Your friends are crazy. They just shot about nine
19 times out there," something like that, that's what he said.

20 Q. What did you do after that?

21 A. Nothing. I just kept looking at my phone.

22 Q. And then what happened?

23 A. Then somebody else came in, said that they had killed
24 Flaco.

25 Q. Okay. What did you do at that point?

1 A. I just stood there. And then after a little bit, I
2 walked out.

3 Q. And where did you go when you walked out?

4 A. No, actually I went to get my friend, and I told her
5 about what happened to him. And then we walked out.

6 Q. Where did you go when you walked out?

7 A. To see what was going on. But I didn't get close. I
8 just stayed away from where he was shot.

9 Q. Did you see Flaco?

10 A. Yeah. He was in the car, shot.

11 Q. Did you have any conversations with Flaco's brother,
12 Pelon, that night?

13 A. Yeah. He asked me if it was true that his brother was
14 dead. I said yes. And he said I'm going to --

15 **MS. HOOD-SCHNEIDER:** I'm going to object to
16 hearsay.

17 **THE COURT:** All right. Response to that?

18 **MS. FARZAD:** That's fine, Your Honor. I can move
19 on.

20 **THE COURT:** Okay. All right. Very well.
21 Sustain the objection.

22 Ms. Hernandez had started to say something, but
23 whatever she was starting to say, please disregard it.

24 **BY MS. FARZAD:**

25 Q. Did you talk to the police that night?

1 A. No. I left.

2 Q. How come?

3 A. Because I didn't want nothing to do with that. I
4 didn't have nothing to do with that, and I still don't want
5 nothing to do with that. I'm not here because I want to be;
6 I'm here because you're making me be here.

7 Q. I understand, ma'am.

8 After the murder of Pelon's brother, do you remember
9 speaking to Chamaco?

10 A. Yeah. He called me on the phone while he was locked
11 up.

12 Q. And what did he say to you?

13 A. That Jorge Flores had told him to tell me whatever I
14 saw, whatever I heard or whatever, not to say anything. And
15 I was, like, what are you talking about?

16 Q. Do you remember at any point talking to Kevin Tidwell
17 and what, if anything, he said about wanting to be famous?

18 A. We were high. I was smoking, and I just thought it
19 was stupid. Something about some man had killed I don't
20 know how many people and he wanted to kill one more. And
21 I'm, like, you're stupid as hell, what the fuck is wrong
22 with you? I was laughing. That was dumb.

23 Q. I'd like to talk to you a little bit about the murder
24 of Liliana Rodriguez.

25 A. I don't know nothing about that either. I was there

1 at La Mansion, but I left. I don't know nothing. I just
2 saw it the next day. I don't have nothing to say about
3 that.

4 Q. When you were at La Mansion that night before she was
5 murdered, did you see any MS-13 members in the bar there?

6 A. Yes, they've always been at the bars. Always. I've
7 always seen them.

8 Q. Did you see any of the defendants who are in the
9 courtroom today at the bar that night?

10 A. Yeah. I saw Demente there.

11 Q. Okay. Do you -- after the murder of Pelón's brother,
12 do you remember another murder being reported on the news
13 about a week after?

14 A. Yeah, I think so.

15 Q. And did you see -- do you recall whether you saw any
16 photographs on the news?

17 A. Yeah, the -- a truck.

18 Q. Okay. If I could have you take a look, please, at
19 Government Exhibit 573. Now, that's going to be in the
20 binder that's marked 436 to 650.

21 A. What do you want me to look at?

22 Q. Government Exhibit 573.

23 A. Yeah, that's the truck.

24 Q. Okay. Do you recognize that photograph?

25 A. Yes.

1 Q. Does that fairly and accurately depict the photograph
2 that you saw on the news?

3 A. Yes.

4 **MS. FARZAD:** Your Honor, at this point, the
5 government would like to move into evidence, with permission
6 to publish to the jury, Government Exhibit 573.

7 **THE COURT:** Any objection?

8 **MR. GANGULI:** No, Your Honor.

9 **THE COURT:** All right. Then without objection,
10 573 will be admitted and may be published.

11 (Government Exhibit 573 was marked and admitted
12 into evidence.)

13 **BY MS. FARZAD:**

14 Q. Who do you see in this photograph, ma'am?

15 A. Kevin.

16 Q. Where do you see Kevin?

17 A. By the door.

18 Q. Okay. What's he wearing?

19 A. A white T-shirt and blue pants.

20 Q. Okay. And who do you see in the truck here?

21 A. That's Jorge.

22 Q. Where is Jorge sitting in the truck?

23 A. In the driver's seat.

24 Q. Now, when you saw Mr. Tidwell, Kevin Tidwell, in

25 the -- in Bola Ocho, do you remember what color hat he was

1 wearing that night?

2 A. Blue hat.

3 Q. Okay. And when you saw Jorge Flores in the vehicle
4 that night, did you see whether or not he had a gun?

5 A. No. I never saw a gun. I told you that. I never saw
6 a gun.

7 Q. Okay.

8 **MS. FARZAD:** I have no further questions for this
9 witness, Your Honor.

10 **THE COURT:** All right. You may proceed.

11 **MR. GANGULI:** Thank you, Your Honor.

12 **CROSS-EXAMINATION**

13 **QUESTIONS BY MR. GANGULI:**

14 Q. Ms. Hernandez, I'm going to ask you some questions.
15 If there's something that I ask you that I'm unclear about,
16 if you'll let me know, I'll back up and I'll try to do
17 better. Okay?

18 A. Okay.

19 Q. Ms. Hernandez, none of the questions that I ask you
20 are designed to embarrass you. Okay?

21 A. Uh-huh.

22 Q. And with the Court's permission, I'm going to ask you
23 direct questions, so if you'll please answer me directly.
24 Okay?

25 A. Okay.

1 Q. Ms. Hernandez, I want to invite your attention back to
2 May of 2017. And specifically, I'd like to talk to you
3 about the Bola Ocho nightclub. All right?

4 A. Uh-huh.

5 Q. On May 21st, 2017, you'd been drinking; is that right?

6 A. Yes.

7 Q. How long had you been drinking that day?

8 A. For a while.

9 Q. Okay. What kind of stuff were you drinking?

10 A. Beer, liquor. And I was using drugs too. I had been
11 using drugs all day. That's not something I've hidden from
12 anybody.

13 Q. Yes, ma'am. And I'm not trying to embarrass you, and
14 we'll get to --

15 A. I'm not embarrassed.

16 Q. We'll get to that in just a second.

17 How much beer, how much liquor, how much alcohol had
18 you consumed?

19 A. A lot.

20 Q. Is it fair to say that you were drunk?

21 A. No, I wasn't drunk, falling off my feet, no, I wasn't,
22 but I was drinking.

23 Q. Okay. Is it fair to say that you were tipsy?

24 A. Yeah, you could say that.

25 Q. All right. In addition to beer, alcohol, and liquor,

1 you said you'd been taking some drugs?

2 A. Yeah.

3 Q. All right. What kind of drugs had you been taking?

4 A. Cocaine, smoking weed, pills.

5 Q. Okay. What kind of pills had you been taking?

6 A. Xanax bars.

7 Q. How many Xanax bars had you taken?

8 A. I don't remember.

9 Q. More than one?

10 A. Yeah.

11 Q. Okay. More than two?

12 A. Possibly, yeah.

13 Q. When you take Xanax bars or, rather, when you took

14 Xanax bars back in 2017, how did they make you feel?

15 A. Good. I mean, that's why I took them. That was the
16 whole point.

17 Q. Okay. By "good," can you tell us exactly?

18 A. Relaxed.

19 Q. Okay. Other than relaxed, is there any other way it
20 made you feel?

21 A. No. Like, I mean, I get aggressive.

22 Q. You would get aggressive?

23 A. Yeah, but, I mean, that night I wasn't aggressive.

24 Q. Okay. So you'd been taking some Xanax bars, drinking
25 some alcohol. You also used cocaine?

1 A. Yes.

2 Q. Okay. Is that the cocaine that you snort or did you
3 smoke it?

4 A. No, you snort -- I snort it. I've never smoked it.

5 Q. Okay. How much cocaine had you snorted?

6 A. I don't remember.

7 Q. When you snort or used to snort cocaine, how did that
8 make you feel?

9 A. Good. I didn't get violent. I would just be a
10 functional person.

11 Q. Okay. It would relax you as well?

12 A. Uh-huh.

13 Q. Okay. Did I understand you that you also smoked
14 marijuana?

15 A. Yes.

16 Q. How much weed had you smoked?

17 A. Probably like two or three blunts.

18 Q. Okay. Two or three blunts in how many hours?

19 A. I don't remember. It was a long time ago.

20 Q. That's fine. So just so I'm clear, you had taken at
21 least two Xanax bars?

22 A. (Nodding head affirmatively.)

23 Q. Is that a "yes"?

24 A. Uh-huh, yes.

25 Q. You had snorted some cocaine?

1 A. Yes.

2 Q. You'd smoked two or three blunts?

3 A. Yes.

4 Q. You'd drunk some alcohol?

5 A. Yes.

6 Q. You've met with the government many times; is that
7 right?

8 A. When they've arrested me. Not because I willingly
9 wanted to.

10 Q. Yes, ma'am. Absolutely.

11 You've met with them in May -- I'm sorry -- March of
12 2023, right?

13 A. Yeah.

14 Q. Okay.

15 A. They made me come in, yeah.

16 Q. Yes, ma'am. And when they made you come in in March
17 of 2023, did you tell them that you were high on drugs that
18 night and your recollection of events that night is not the
19 best?

20 A. Well, because they've been harassing me. They've been
21 calling me, they've been showing up at my house, they've
22 been -- like, I was on the run for, like, since 2017 until I
23 got arrested in 2021 because of the same thing, that I
24 didn't want to have to do this, sit right here. I told them
25 that since the beginning.

1 So whenever -- now that I've gotten myself
2 straightened out, I'm back on community corrections and
3 everything, I'm doing things right, I don't want to have a
4 warrant on my arrest again. I don't want to have to do
5 that. So I told them to leave me alone, that I didn't want
6 to be here, that I didn't want to testify. So they told me
7 I was subpoenaed to be here.

8 **THE COURT:** But the question, ma'am, was: Did
9 you tell the government that you were high on drugs that
10 night?

11 **THE WITNESS:** Yes, I did, and I'm not hiding
12 that.

13 **THE COURT:** Okay. All right. That was the
14 question and needs to be answered.

15 You can ask another one.

16 **MR. GANGULI:** Thank you, Your Honor.

17 **BY MR. GANGULI:**

18 Q. With respect to your community corrections that you
19 discussed, can you please tell us what the phrase "community
20 corrections" means?

21 A. I'm basically locked up but out. But that's for a
22 whole different charge, nothing to do with any of this.

23 Q. Yes, ma'am. Have you been reconvicted of robbery in
24 Case No. 2016-C-1234?

25 A. That's the charge that I'm on community corrections

1 for.

2 Q. Yes, ma'am.

3 Going back to May of 2017, that night, how long had
4 you been at the Bola Ocho nightclub?

5 A. Maybe an hour or two? I don't know.

6 Q. Okay. With whom -- who did you come there with?

7 A. With my friend, the one that you see me on the video
8 with.

9 Q. What's her name?

10 A. Adriana.

11 Q. Does she have a last name?

12 A. Hall.

13 Q. H-A-L-L? Okay.

14 You were friendly with Kevin Tidwell in 2017, right?

15 A. Yeah.

16 Q. Okay. Because you guys used to get high together,
17 right?

18 A. Yeah. I didn't have a problem with him.

19 Q. Okay. And on that May night in 2017, did I understand
20 you correctly that Mr. Tidwell gave you a couple of bars?

21 A. Yeah.

22 Q. Okay. Is that the two Xanax bars that you had taken?

23 A. Yeah.

24 Q. Okay. When you talked to officers, did you tell them
25 that you were inside the nightclub when the shooting

1 happened?

2 A. I was inside.

3 Q. Okay. If you can tell us: How big is the Bola Ocho
4 nightclub?

5 A. I don't know.

6 Q. Is it bigger than the courtroom?

7 A. About the same size, I think.

8 Q. Okay. If we can agree that there's an exit to the
9 Bola Ocho nightclub, and if we can agree that the doors to
10 the courtroom, the double doors, are the exit, where in the
11 nightclub were you when the shooting happened?

12 A. Where the deejay sits, that's right by the door. But
13 the music is all -- the speakers are there too. You can --
14 all you hear is the music.

15 Q. Okay.

16 **MR. GANGULI:** Your Honor, may I have permission
17 to walk around the courtroom?

18 **THE COURT:** Where do you intend to go?

19 **MR. GANGULI:** Somewhere in the courtroom where
20 the witness would be standing when this shooting happened.

21 **THE COURT:** Yeah. Okay. All right. We'll see
22 where this goes, but you may proceed.

23 **MR. GANGULI:** Thank you, Your Honor.

24 **BY MR. GANGULI:**

25 Q. So again, Ms. Hernandez, let's pretend that the doors

1 of the courtroom are the doorways to the nightclub. And if
2 you'll tell me, please, where exactly you were standing.

3 A. On that side was where the deejay is.

4 **MR. GANGULI:** With the Court's permission, I'm
5 going to go stand there.

6 **THE COURT:** All right.

7 **BY MR. GANGULI:**

8 Q. Am I in the correct place?

9 A. A little bit further down, but yeah. Yeah.

10 Q. Over here?

11 A. Uh-huh.

12 Q. How many other people were between you and the exit?

13 A. There was no other people between me and the exit.
14 The only one person that was there was behind the little
15 deejay booth, and it was the deejay.

16 Q. Okay. You talked about a deejay. So there's a lot of
17 music blaring in the nightclub; is that right?

18 A. It's right there, yeah.

19 Q. So if you're inside the nightclub and there's music
20 blaring, is it fair to say that you didn't even hear the
21 shooting?

22 A. I didn't. I never said I did.

23 Q. Thank you.

24 **MR. GANGULI:** Your Honor, may I have a moment to
25 speak with Mr. Gulotta?

1 **THE COURT:** You may.

2 (Respite.)

3 **MR. GANGULI:** Your Honor, I'll pass the witness.

4 **THE COURT:** All right. Thank you.

5 **CROSS-EXAMINATION**

6 **QUESTIONS BY MS. HOOD-SCHNEIDER:**

7 Q. Good afternoon, Ms. Hernandez. My name is Vakessha
8 Hood-Schneider, and I represent Mr. Flores. I just have a
9 few quick questions for you.

10 The night of May 21st, 2017, when you were at
11 Bola Ocho, you mentioned you saw Mr. Flores in a vehicle,
12 correct?

13 A. Yes.

14 Q. And you said he was in the front-passenger seat,
15 correct?

16 A. Yes.

17 Q. Okay. And you also said when you returned into the
18 club, you didn't hear any gunshots, right?

19 A. I didn't.

20 Q. Didn't see anybody shoot?

21 A. I didn't.

22 Q. Didn't see a gun that night, right?

23 A. I didn't. That's what I've been saying the whole time
24 that they've been arresting me and asking me questions and
25 asking me to come in.

1 **MS. HOOD-SCHNEIDER:** Those are my questions.

2 **THE COURT:** All right. Mr. Bloom?

3 **MR. BLOOM:** No questions, Your Honor.

4 **THE COURT:** All right. Redirect examination?

5 **MS. FARZAD:** Very briefly, Your Honor.

6 **THE COURT:** All right.

7 **REDIRECT EXAMINATION**

8 **QUESTIONS BY MS. FARZAD:**

9 Q. Ms. Hernandez, you've testified multiple times that
10 you don't want to be here.

11 A. I don't.

12 Q. And that the government harassed you to come to court
13 today.

14 A. Yes.

15 Q. But you were there that night.

16 A. Yes, I was.

17 Q. And a person was murdered.

18 A. Yes, it was, and I'm sorry for that. I'm sorry that
19 that happened. But at the end of the day, it doesn't have
20 anything to do with me. I wasn't the one pulling no
21 triggers. I didn't see who did it. I don't -- what do I
22 have to do with it anyways? There was a lot of other people
23 that was there. I don't see any of them in here.

24 Q. Would you agree with me that the police investigating
25 that crime, that's an important thing?

1 **MR. GANGULI:** Objection, Your Honor, as to
2 leading.

3 **THE COURT:** Actually, for reasons I'm happy to
4 explain later, that question is not leading, so I'm going to
5 overrule the objection.

6 Question being: "Would you agree with me that
7 the police investigating that crime, that's an important
8 thing?"

9 **THE WITNESS:** They should investigate all crimes.
10 That's what they're -- they're police -- to do, right?

11 **BY MS. FARZAD:**

12 Q. That's correct. Your -- that's correct. Is it
13 important -- do you believe it's important for people to
14 come testify in court about what they've seen and what they
15 know?

16 A. Not if they don't want to. Because I'm here on
17 something that I didn't see actually physically happen. I'm
18 just here because I was there. I didn't have nothing to do
19 with it. I don't want to be here. And if it's okay, I just
20 want to go ahead and go and put this behind me.

21 **THE COURT:** Ma'am, ma'am, the attorneys are
22 allowed to ask questions, and we are -- I would venture to
23 say we're on the back part of this, and you will get out of
24 here quicker if you just answer the question if counsel --

25 **THE WITNESS:** I just did.

1 **THE COURT:** -- if counsel has any more.

2 **MS. FARZAD:** Thank you, Your Honor. I have no
3 further questions. Thank you.

4 **THE COURT:** All right. You may step down. Thank
5 you.

6 (The witness stepped down.)

7 **THE COURT:** All right. One moment.

8 (Respite.)

9 **THE COURT:** All right. Thank you. All right.
10 The government may call its next witness, please.

11 **MR. SAFEEULLAH:** The United States calls Tim
12 Brewer.

13 **THE COURT:** All right.

14 (The witness was sworn.)

15 * * *

16 **TIMOTHY BREWER,**

17 **was called as a witness, and after having been first duly**
18 **sworn, testified as follows:**

19 **DIRECT EXAMINATION**

20 **QUESTIONS BY MR. SAFEEULLAH:**

21 Q. Good afternoon.

22 A. Good afternoon.

23 Q. Can you please state and spell your last name for the
24 record.

25 A. Timothy Brewer, B-R-E-W-E-R.

1 Q. Where are you presently employed?

2 A. Metro Nashville Police Department.

3 Q. And what division do you work in?

4 A. Currently in full-time SWAT or SRT.

5 Q. And what does SRT stand for?

6 A. Special response team.

7 Q. And in -- well, when did you start working in that
8 unit?

9 A. I believe it was 2013.

10 Q. And what are some of the things that you-all do?

11 A. It varies from day to day. Part of our job would be
12 to seek the arrest of violent felony warrant individuals and
13 things like that, or respond to calls, special calls that --
14 requests from patrol or things like that.

15 Q. Were you a member of this team on June 1st, 2017?

16 A. Yes, sir.

17 Q. Were you working on that day?

18 A. Yes, sir.

19 Q. And what were you doing?

20 A. We were doing our day-to-day duties. I think we were
21 out attempting to serve warrants on that day.

22 Q. Were you trying to arrest Kevin Tidwell?

23 A. Yes.

24 Q. Did you actually participate in his arrest?

25 A. Yes.

1 Q. Do you remember what time of day it was when you
2 arrested him?

3 A. I believe it was approximately 11:00 a.m.

4 Q. And how did you become involved in that arrest?

5 A. We received information that Brentwood police had
6 spotted him in a stolen vehicle. We started moving that
7 direction. During that time, things started to develop. I
8 think they tried to get a traffic stop on him, and he
9 refused to stop.

10 Q. And what did you do?

11 A. We continued that way. Prior to our arrival, he
12 wrecked on I-65 North in the Brentwood area, and we
13 responded to that scene where he crashed his vehicle.

14 Q. And this was on I-65?

15 A. Yes, sir.

16 Q. And was he far in front of you when he crashed or were
17 you in pursuit behind other officers when he crashed?

18 A. I was in pursuit behind. It was -- I don't know the
19 exact distance, but just out of my view when he crashed, but
20 I shortly came up on the crash after it occurred.

21 Q. Were you driving at a normal rate of speed or were you
22 driving above the speed limit?

23 A. Probably a little above.

24 Q. And this crash occurred on I-65?

25 A. Yes, sir.

1 Q. And was that northbound or southbound?

2 A. It would be -- it was from Brentwood back towards
3 Nashville, so it would have been northbound.

4 Q. And did you observe the scene as you arrived on it?

5 A. Yes, sir.

6 MR. SAFEEULLAH: Your Honor, may I approach this
7 witness?

8 THE COURT: You may.

9 BY MR. SAFEEULLAH:

10 Q. I'm passing up what's previously been marked as
11 United States Exhibit 744. Can you tell me what's on that
12 disk?

13 A. This was dash cam video, I believe, of a sheriff's
14 deputy in Williamson County. It's a -- was a marked
15 sheriff's deputy's car, patrol car.

16 Q. And was that video taken on June 1st, 2017?

17 A. Yes, sir.

18 Q. And have you watched the full video that depicts part
19 of that snippet that's on that disk?

20 A. Yes, sir.

21 Q. And do you see yourself in that full video?

22 A. The full video, yes. There's a snippet that I'm not
23 in, but the full video, yes, I'm in that.

24 Q. And the video that you watched, does it accurately and
25 correctly depict the scene on that day?

1 A. Yes, sir.

2 **MR. SAFEEULLAH:** Your Honor, I move to admit into
3 evidence United States Exhibit 744, and I request permission
4 to publish it to the jury.

5 **THE COURT:** All right. Absent objection,
6 Government Exhibit 744 will be admitted and can be
7 published.

8 (Government Exhibit 744 was marked and admitted
9 into evidence.)

10 (Playing video.)

11 **BY MR. SAFEEULLAH:**

12 Q. Now, the video has ended, but this is just a snippet
13 of a larger video?

14 A. Yes, sir.

15 Q. And if we continued to watch this video, would we see
16 you in the video?

17 A. Yes, sir.

18 Q. Were officers able to get Kevin Tidwell out of that
19 car?

20 A. Yes, sir. We eventually got him out the front
21 passenger side of the vehicle.

22 Q. The front passenger side, not the front driver's side?

23 A. Right. Because it was up against the retaining wall
24 there, so we got him out through the passenger side of the
25 front, passenger side.

1 Q. When he got out of the car, what did you do?

2 A. I helped take him into custody. Me and another
3 officer actually went hands on with him and placed him in
4 handcuffs. During that time, he confessed to me that there
5 was a handgun in his pocket, and at that time after we got
6 him into custody, I took that out of his pocket and, I
7 believe, laid it back on the front seat, front passenger
8 seat of the vehicle.

9 **MR. SAFEEULLAH:** Your Honor, may I approach
10 again?

11 **THE COURT:** You may.

12 **BY MR. SAFEEULLAH:**

13 Q. I'm passing up what's previously been marked as
14 United States Exhibit 73. Can you tell me what this item
15 is?

16 A. Yes, sir. That is the handgun that I retrieved. I
17 just want to confirm the serial number just to make sure.

18 Yes, sir. That is the firearm that I recovered off of
19 Mr. Tidwell.

20 Q. Now, I just saw you look at something. What were you
21 looking at there to refresh your recollection?

22 A. Just the incident report that was done the day of his
23 arrest.

24 Q. And who wrote that incident report?

25 A. Desmond Sumerel.

1 Q. Okay. Now, that firearm there that's in front of you,
2 does that look like the firearm that you took out of Kevin
3 Tidwell's pocket?

4 A. Yes.

5 Q. And which pocket did you take it out of?

6 A. His front right pocket.

7 Q. And where did you put that firearm when you took it
8 out of his pocket?

9 A. On the front passenger seat of the vehicle that he was
10 driving.

11 **MR. SAFEEULLAH:** Your Honor, I move to admit into
12 evidence United States Exhibit 73.

13 **THE COURT:** Absent objection, it will be
14 admitted.

15 (Government Exhibit 73 was marked and admitted
16 into evidence.)

17 **MR. SAFEEULLAH:** I'm not going to publish it to
18 the jury; however, Your Honor, I have two stipulations I
19 would like to read into the record at this point.

20 **THE COURT:** All right. You may proceed.

21 **MR. SAFEEULLAH:** "It is hereby stipulated and
22 agreed among the parties that:

23 "Before June 1st, 2017, the defendant, Kevin
24 Tidwell, was a convicted -- was convicted of a crime
25 punishable by imprisonment for more than one year.

1 "Before June 1st, 2017, the defendant knew he had
2 been convicted of a crime punishable by imprisonment for
3 more than one year."

4 And this is United States Exhibit 1340, Your
5 Honor. I move to admit United States Exhibit 1340 into
6 evidence.

7 **THE COURT:** Absent objection, Government
8 Exhibit 1340 will be admitted.

9 (Government Exhibit 1340 was marked and admitted
10 into evidence.)

11 **MR. SAFEEULLAH:** My next stipulation is United
12 States Exhibit 1339.

13 "It is hereby stipulated and agreed among the
14 parties that:

15 "The Ruger Model LCR Caliber .38 Special +P
16 revolver, with serial number: 540-41049, admitted as United
17 States Exhibit 73, is a firearm as defined under Title 18,
18 United States Code, Section 921(a)(3), in that it is a
19 weapon which will, or is designed to, or may readily be
20 converted to, expel a projectile by the action of an
21 explosive.

22 "The Ruger Model LCR Caliber .38 Special +P
23 revolver, with serial number 540-41049, admitted as United
24 States Exhibit No. 73, was manufactured outside of the State
25 of Tennessee, and was transported across state lines into

1 the State of Tennessee, thereby affecting interstate
2 commerce.

3 "It is so stipulated."

4 Your Honor, I move to admit into evidence
5 United States Exhibit 1339.

6 **THE COURT:** And 1339 is what you had just read,
7 no more, no less; is that right?

8 **MR. SAFEEULLAH:** Well, it has the title of the
9 case, the style of the case, and then the parties' signature
10 at the bottom.

11 **THE COURT:** Yeah, so it did have those pieces of
12 substance as reflected in Government Exhibit 1339, I take
13 it.

14 **MR. SAFEEULLAH:** That's correct.

15 **THE COURT:** All right. Absent objection,
16 Government Exhibit 1339 will be admitted.

17 (Government Exhibit 1339 was marked and admitted
18 into evidence.)

19 **BY MR. SAFEEULLAH:**

20 Q. It appears that Mr. Tidwell was in a car accident.
21 Was that accurate?

22 A. Yes, sir.

23 Q. And was he injured in that accident?

24 A. He was transported to Vanderbilt. I don't remember
25 exactly what his injuries were, but he was there several --

1 like four hours and then he was released. And I transported
2 him to booking. But I don't remember the extent of his
3 injuries. They were minor.

4 Q. But was he treated on the scene?

5 A. He was transported to Vanderbilt by an ambulance, and
6 I rode in the ambulance with him to Vanderbilt and stayed
7 with him the entire time of his stay, and then transported
8 him to booking after about four hours.

9 Q. Can you look at United States Exhibit 745 in one of
10 those booklets.

11 A. 745, you said?

12 Q. That's correct.

13 A. Okay.

14 Q. Do you recognize that photograph?

15 A. Yes, sir.

16 Q. What does that photograph depict?

17 A. That is Mr. Tidwell on the stretcher inside the
18 ambulance that transported him to Vanderbilt.

19 Q. And how do you know that?

20 A. Because I was there and rode with him during that
21 trip.

22 **MR. SAFEEULLAH:** Your Honor, I move to admit into
23 evidence United States Exhibit 745, and I request permission
24 to publish it to the jury.

25 **THE COURT:** All right. Absent objection,

1 Government Exhibit 745 is admitted and may be published.

2 (Government Exhibit 745 was marked and admitted
3 into evidence.)

4 **MR. SAFEEULLAH:** Thank you for pulling that up
5 for us.

6 **COURTROOM DEPUTY:** You're welcome.

7 **BY MR. SAFEEULLAH:**

8 Q. Is this the photograph that you were just describing?

9 A. Yes, sir.

10 Q. And who is the person in the ambulance that we're
11 looking at?

12 A. That's Mr. Tidwell that's seat-belted onto the
13 stretcher.

14 **MR. SAFEEULLAH:** Can we zoom in on his shoes,
15 please.

16 **BY MR. SAFEEULLAH:**

17 Q. What color were his shoes?

18 A. White.

19 Q. It appears to be something on those shoes. Is that a
20 glare from the camera or was there something on his shoes
21 that day?

22 A. I believe -- I'm not 100 percent sure. It appeared
23 that it could possibly be blood.

24 Q. But you're not completely sure?

25 A. I'm not completely sure.

1 Q. But there is some type of coloring on his shoe?

2 A. Yes.

3 Q. And what city was Mr. Tidwell in or what county when
4 he was arrested?

5 A. That was right on the border of Davidson County and
6 Williamson County. It was actually on the Williamson County
7 side though, but right on the border.

8 MR. SAFEEULLAH: I don't have any additional
9 questions of this witness at this time, Your Honor.

10 THE COURT: Okay. Mr. Ganguli?

11 MR. GULOTTA: No questions, Your Honor.

12 THE COURT: All right. Thank you, Mr. Gulotta.
13 Ms. Hood-Schneider?

14 MS. HOOD-SCHNEIDER: No questions.

15 THE COURT: And Mr. Bloom?

16 MR. BLOOM: No questions, Your Honor.

17 THE COURT: All right. Thank you, sir. You may
18 step down.

19 (The witness stepped down.)

20 THE COURT: All right. We will at this time take
21 our midafternoon break, and the jurors may step down for
22 roughly 15 minutes, and then we'll go on our last stretch
23 for the day. Thank you.

24 (WHEREUPON, the jury was excused from the
25 courtroom at 3:05 p.m., with matters being heard in open

1 court as follows:)

2 **THE COURT:** All right. Thank you. Please be
3 seated. One thing I wanted to say, I think it was you,
4 Mr. Ganguli, that made the objection. Just for future
5 reference and to explain my remark about the objection there
6 to leading: The question was very similar to something
7 like, "Would you agree with me that the police investigating
8 that crime is an important thing?" I do think in general
9 when a question is phrased as "would you agree with me," I
10 understand the argument as to what makes it leading, but to
11 me, by its very nature, it invites the witness to push back
12 very much on agreeing if they see fit to do so, offers them
13 a choice to an extent that most leading questions don't.

14 And that's why the -- I think on balance, that
15 sort of question, particularly when you're -- we're dealing
16 with a witness who is not inclined necessarily to agree with
17 the questioner about anything, I wouldn't call it leading.

18 So I did want to explain that. Obviously, the
19 very particular way in which questions are formulated does
20 govern whether they are leading or not.

21 So just for the information for counsel as to how
22 I view that kind of thing.

23 Anything we need to discuss before we go to
24 break?

25 **MR. SAFEEULLAH:** Not from the United States.

1 **THE COURT:** No? Anything from counsel? No? All
2 right. We'll stand in recess. Thank you.

3 (Recess 3:07 p.m. to 3:34 p.m.)

4 **THE COURT:** All right. Do we have any
5 preliminary matters to discuss before we continue?

6 **MR. SAFEEULLAH:** Just very briefly, Your Honor.
7 I think it was brought to the United States' attention that
8 during portions of one of the last few witnesses that
9 testified, someone was in the courtroom with their phone
10 out. I'm not sure whether they were trying to record
11 testimony, take photographs, or whether they were taking a
12 selfie of themselves and their hair while they were in here.

13 I think the Marshals or the Court Security
14 removed them. But that is something that we wanted to bring
15 to the Court's attention, that I think there was someone in
16 here trying to possibly record the testimony or witnesses on
17 the stand.

18 **THE COURT:** All right. Thank you for that,
19 Mr. Safeeullah.

20 Defendants have any comments about that? Nope?
21 All right.

22 Yeah, the Court's obviously -- its expectation is
23 that things not be recorded. We don't do that in these
24 courtrooms, have recordings of court testimony. It's
25 against the rules. People are allowed to observe, we

1 encourage that, but they can't sit here and record
2 testimony. And individuals on their phone and CSOs and the
3 Marshals are certainly authorized to use their discretion to
4 deal with such situations.

5 All right. Thank you. If nothing further, we
6 can call in the jurors. Thank you.

7 (WHEREUPON, the jury re-entered the courtroom at
8 3:35 p.m., with matters being heard in open court as
9 follows:)

10 **THE COURT:** All right. Thanks, folks. Please be
11 seated.

12 Mr. Safeeullah, if the government wishes to call
13 its next witness.

14 **MR. SAFEEULLAH:** Yes, the United States calls
15 Dr. Erin Carney.

16 **THE COURT:** All right. Dr. Carney may come
17 forward.

18 (The witness was sworn.)

19 **MR. SAFEEULLAH:** May I proceed, Your Honor?

20 **THE COURT:** Yes, sir.

21 ///

22 ///

23 ///

24 ///

25 ///

* * *

DR. ERIN CARNEY,

was called as a witness, and after having been first duly sworn, testified as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. SAFEEULLAH:

Q. Good afternoon, Dr. Carney.

A. Good afternoon.

Q. Can you please state and spell your last name for the record.

A. It's Dr. Erin Carney. First name is E-R-I-N, last name, C-A-R-N-E-Y.

Q. And where are you presently employed?

A. I'm employed at the center for forensic medicine. We serve as the Davidson County Medical Examiner's Office in the regional forensic center for the Middle Tennessee area.

Q. And what's your job title?

A. I am the deputy chief medical examiner for Davidson County.

Q. And how long have you served in this role?

A. I've been in that role since March of 2022. And before that, I was assistant medical examiner starting in July of 2013.

Q. What do you do as the chief -- the deputy chief medical examiner?

1 A. Well, I'm a forensic pathologist, so my job is to
2 perform external examinations and autopsies to determine
3 cause and manner of death in deaths that fall under medical
4 examiner jurisdiction. So these are deaths that occur under
5 violent or suspicious circumstances or are sudden and
6 unexpected in someone with no medical history to explain why
7 they died.

8 Q. Before you became the deputy chief, I think you
9 mentioned you were assistant medical examiner?

10 A. Yes, sir.

11 Q. And how long did you serve in that role?

12 A. From July 2013 until March of 2022.

13 Q. Could you please explain your educational background
14 that makes you qualified to be a medical examiner?

15 A. Yes. I earned my bachelor of science degree in
16 biology with a concentration in biochemistry and cellular
17 and molecular biology from the University of Tennessee
18 Knoxville. I attended Vanderbilt University School of
19 Medicine where I earned my doctor of medicine degree.

20 I completed residency in anatomic and clinical
21 pathology at the Johns Hopkins Hospital in Baltimore, and a
22 forensic pathology fellowship at the State of Maryland
23 Office of the Chief Medical Examiner.

24 Q. And how long was your residency?

25 A. It was four years.

1 Q. After you finished your residency, where did you work?

2 A. So after my forensic pathology fellowship at the
3 office of the chief medical examiner in Baltimore, I then
4 moved to Nashville and began working here.

5 Q. And were you performing autopsies in Baltimore?

6 A. Yes.

7 Q. And how long were you there?

8 A. One year.

9 Q. And over the course of your career, how many autopsies
10 have you performed?

11 A. I've performed over 3,000 autopsies.

12 Q. Have you taught any medical classes, courses, or
13 spoken at any lectures?

14 A. I have taught medical students. Did that during
15 residency. I've also presented to residents and actually
16 helped teach residents in pathology from Vanderbilt.

17 Q. Have you authored any publications?

18 A. Yes.

19 Q. What publications have you authored?

20 A. I authored a publication on --

21 Q. Well, are you referring to a document now?

22 A. Yes.

23 Q. Okay. Do you need to remember what you made a
24 publication? I think that's fine, but if so --

25 A. Yes. I was just looking at the title so I can give

1 you more detail about it.

2 **THE COURT:** All right. Let's do this. If you
3 wouldn't mind just flipping that over.

4 **THE WITNESS:** Sure.

5 **THE COURT:** And you can have that available if
6 you need it to refresh your memory.

7 **THE WITNESS:** Okay.

8 **THE COURT:** Just let us know if you think that
9 that could refresh your memory if you can't remember
10 something.

11 **THE WITNESS:** Okay.

12 **THE COURT:** Otherwise, we'll just go with the
13 Q&A.

14 **THE WITNESS:** Okay.

15 **BY MR. SAFEEULLAH:**

16 Q. My question was, what publications have you authored?

17 A. So I authored a publication on axillary lymph node
18 inclusions that appeared to be endosalpingiosis, and these
19 were in women who had --

20 (Reporter clarification.)

21 **THE WITNESS:** So it was looking at inclusions in
22 axillary lymph nodes in women who had previously had breast
23 cancer, and we found that those inclusions were benign.

24 I also authored a publication on distinguishing
25 metastatic clear cell renal cell carcinoma from

1 hemangioblastoma in the central nervous system.

2 **BY MR. SAFEEULLAH:**

3 Q. The second one that you just mentioned, could you give
4 us the 3000-foot view, the layman's version of what that
5 publication dealt with?

6 A. So the publication was looking at a series of three
7 immunostains to distinguish what type of tumor was actually
8 in the brain and spinal cord.

9 Q. Have you ever been called to testify in court before?

10 A. Yes.

11 Q. Have you ever been called to testify about autopsies
12 that you've performed?

13 A. Yes.

14 Q. How many times have you been called to court to
15 testify about autopsies that you've performed?

16 A. I have been called to court 58 times. Well, I've
17 testified 58 times.

18 Q. Have you ever been qualified to give your opinion
19 about a person's cause of death?

20 A. Yes.

21 Q. How many times have you been qualified to give your
22 opinion about a person's cause of death?

23 A. Pretty much most of those 58 times.

24 Q. In what courts have you been qualified to give your
25 opinion on the cause of death?

1 A. Do you mind if I refer to my list?

2 **THE COURT:** If you can't recall, that is fine.

3 So --

4 **THE WITNESS:** Well, do you want all the counties
5 or just the states?

6 **THE COURT:** What -- let's do it this way. Maybe
7 ask kind of as clear as you can what you're looking for, see
8 what you can recall, and if you can't recall the rest, then
9 you may refer to that.

10 **THE WITNESS:** Okay.

11 **BY MR. SAFEEULLAH:**

12 Q. In what states have you been qualified to give your
13 expert opinion on someone's cause of death?

14 A. I've been qualified in the states of Maryland, Texas,
15 Kansas, Tennessee, and Kentucky.

16 Q. Any other states?

17 A. No.

18 **MR. SAFEEULLAH:** Okay. Your Honor, at this
19 point, I would move to have Dr. Carney qualified to give her
20 expert opinion on the causes of death under Rule 702.

21 **THE COURT:** All right. Any objection to
22 qualification under Rule 702 for Dr. Carney re manner of
23 cause of death?

24 All right. Seeing no objection, Dr. Carney may
25 testify under Rule 702.

1 BY MR. SAFEEULLAH:

2 Q. Before we get into what you did in relation to the
3 facts of this case, can you explain to us what doctors at
4 the Medical Examiner's Office do on a day-to-day basis?

5 A. Yes. So on the days that I am on autopsy, I will
6 perform external examinations and autopsies, like I
7 mentioned, to determine cause and manner of death.

8 Would you like me to explain the autopsy procedure?

9 Q. Well, how long is your day? Do you start at 8:30, do
10 you start at 10:00, do you work Monday through Friday, are
11 you on rotation?

12 A. So I usually work Monday through Friday. The office
13 is open from 8:00 to 4:30. We do perform autopsies every
14 day of the year with the exception of Christmas, so I do
15 work some weekends, and we switch out on that.

16 Q. When you report to the office first thing in the
17 morning, what's one of the first things you do?

18 A. So the first thing we do at 8:00 is we have a meeting
19 and we go over the cases that are there for the day to
20 determine what -- you know, which ones need an autopsy,
21 which ones need an external examination, and then we divide
22 the work between the two doctors who are doing the autopsies
23 and external examinations that day.

24 Q. And just generally speaking, after you -- a doctor at
25 the Medical Examiner's Office has done an autopsy, what

1 other procedures or things do they do?

2 A. I will dictate that case so that my transcriptionist
3 can transcribe my autopsy report. I'll follow up on
4 previous cases where I have the paperwork and I'm waiting on
5 toxicology results, so I'll check any toxicology results
6 that have come in, maybe review slides if I submitted any
7 tissue for slides on previous cases, and then I can complete
8 out those autopsy reports and death certificates.

9 Q. Now, we've been using this term "autopsy." Could you
10 explain what that means?

11 A. Yes. So an autopsy is an examination of the body. It
12 typically consists of two parts. There's an external
13 examination and an internal examination.

14 For the external examination of the body, I look at
15 the outside of the body, and I will record details about
16 that body: the length of the body on the table, the weight
17 of the body, the hair color, eye color. I will look for
18 evidence of disease or injury on the outside of the body
19 that might help explain why the person died.

20 Following that, there's an internal examination. We
21 perform a Y incision on the chest and abdomen and reflect
22 that skin and soft tissue so that I can see the ribs and the
23 sternum. We'll cut through the ribs and take off the
24 front -- the sternum and ribs -- chest plate, if you will --
25 so that I can see the internal organs, look for any blood or

1 other fluids that are around the organs that shouldn't be
2 there.

3 And then we'll remove those organs and look at them
4 more carefully to look for evidence of disease or injury to
5 explain why that person died. And then we'll also draw
6 blood and other body fluids to send off for toxicology
7 testing.

8 Q. Now, when you-all begin the autopsy at the Medical
9 Examiner's Office, is that the first time that someone from
10 your office may be involved in dealing with a body?

11 A. It depends if we've had a scene investigation by my
12 office or not.

13 Q. And explain that, please.

14 A. So if someone is pronounced deceased at the scene and
15 their body is not transported to the hospital for CPR, then
16 the police will be called out to the scene. And if it's
17 determined that that death falls under medical examiner
18 jurisdiction, then an investigator from my office will go
19 out to the scene, take pictures of the scene, take pictures
20 of the body, examine the body, talk to the police, talk to
21 any family that are there, and gather all that information
22 and compile it into a report which I can review prior to
23 beginning the autopsy.

24 If the body is transported to the hospital, then we
25 don't have a scene to respond to, and so then the first time

1 that I see that body will be when they come to my office.

2 Q. And why is it important for the investigator to get
3 information at the scene?

4 A. It helps to see the surroundings. If you have a case
5 where there's been some sort of violent activity, it helps
6 to see if there's a lot of blood on the ground around the
7 body. It also helps to look around and see maybe if the
8 body is in an awkward position where they couldn't breathe,
9 if there are any drugs or drug paraphernalia on scene,
10 things like that that help understand how the person died.

11 Q. In addition to taking the photographs at the scene, is
12 there anything else that the investigators do at the scene?

13 A. Well, when they've completed their body examination
14 and they've talked to police and any family there, they will
15 actually -- the removal service will come and they will help
16 the investigator move the body into a bag. That bag will
17 then be sealed up. The name and the case number, medical
18 examiner case number, will be placed on the outside of the
19 bag. And then they take -- there's two zippers on the bag,
20 and a seal goes through those two zippers, and it's
21 basically locked up and sealed up.

22 And my investigator will actually initial that seal,
23 and that seal is not broken until we bring the body out and
24 are ready to examine it at the Medical Examiner's Office.

25 Q. Do they also do anything with the hands before they

1 zip the bag up?

2 A. Sometimes they will put -- they will secure bags over
3 the hands, especially if we're trying to preserve any
4 evidence on the hands, if they want us to take nail
5 clippings or swabs or collect anything from the hands.

6 Q. Do they do anything with the body as far as moving it
7 to observe how it is or what's going on with the body before
8 they put it in the bag?

9 A. They will usually roll the body onto its side so they
10 can see the back of the body, maybe lift up the shirt if
11 they have a shirt on, to see if there's any injury that
12 might be covered up by the shirt.

13 Q. Now, does the investigator also transport the body
14 from the scene to your office?

15 A. No. The investigator is usually in a company vehicle.
16 But a removal service that comes with a van and a gurney,
17 they will actually transport the body directly to the
18 office.

19 Q. So when the body arrives at the scene -- I mean at
20 your office, what's one of the first things that happens in
21 processing when it arrives?

22 A. So when the body first arrives, it is -- there's a
23 timestamp so we know what date and time the body arrived at
24 the office. And then if it's not while we're doing
25 autopsies, like in the morning, then the body will be placed

1 in a cooler and kept cool until the following day when they
2 will be examined.

3 Q. And how cool is this cooler?

4 A. It's usually about 40 to 45 degrees.

5 Q. And why is it that temperature?

6 A. So if we keep them in that cooler environment, it will
7 slow the rate of decomposition and preserve the tissue for
8 the examination.

9 Q. How soon after a body arrives at your office does it
10 get examined?

11 A. It's usually within the next day or two.

12 Q. So that cool temperature helps preserve it for that
13 next day or two before you-all can perform the autopsy?

14 A. Yes, sir.

15 Q. So when you get ready to begin an autopsy, can you
16 walk us through what you do?

17 A. So like I mentioned, that seal is broken on the bag.
18 We'll take a picture of the body the way it appears when it
19 first comes in before we've moved it, collected any
20 evidence. If any evidence needs to be collected, we'll do
21 that first: clip nails, pull hair, any evidence that needs
22 to be collected like that.

23 And then we will start to undress the body. We'll
24 clean the body. If they've been a victim of a stabbing or a
25 shooting, we will actually x-ray the body to look for any

1 projectiles or broken blades that might be in the body, and
2 then we will begin the autopsy like I mentioned.

3 Q. How do you-all keep track of which individuals are
4 having autopsies performed on them?

5 A. Well, we have a list each day. And then each person
6 has their own specific medical examiner case number. They
7 each get a tag placed around the right ankle that has the
8 medical examiner case number and their name so that we know
9 who they are.

10 Q. And when you start the examination, you start the
11 external examination before the internal examination; is
12 that correct?

13 A. Yes, sir.

14 Q. When you're doing this external examination, what are
15 you looking for?

16 A. So I'm usually looking for evidence of disease or
17 injury to help explain why the person died. So if I find
18 any injuries, I will document where they are typically on a
19 body diagram. If it's something like a gunshot wound, I'll
20 actually measure the size of the gunshot wound, where it's
21 located on the body.

22 Q. Is there a person with you that's taking pictures as
23 you're doing the external examination of the body?

24 A. Yes, sir. We do have a photographer.

25 Q. Is it -- what label? What title does that person

1 have?

2 A. Forensic photographer. So they will take pictures of
3 all of those injuries and anything in addition that I would
4 like for them to document with photographs.

5 Q. Do they try to get a complete 360 view of the body?

6 A. Yes.

7 Q. And why do they do that?

8 A. Well, we want to have a photograph, like I mentioned,
9 of the body completely. It's usually a series of three
10 photographs, working from head to toe, and then also of the
11 back, so that you see an overview of where those injuries
12 are located. And then we'll take close-ups so you can get a
13 closer look at those injuries.

14 Q. What would cause you to conduct an x-ray on someone
15 that's deceased?

16 A. So we usually do an x-ray if they've got any sort of
17 gunshot wounds, stab wounds, or if they are unidentified and
18 the x-ray may help us identify who this person is by
19 comparing it to an antemortem or an x-ray performed while
20 they were still alive.

21 Q. And what evidence or what guidance does this x-ray
22 give you?

23 A. So when we do an x-ray, particularly on someone with
24 gunshot wounds, we can see if there are any projectiles in
25 the body, and that can help me determine, with my entrance

1 wounds and exit wounds, that I've accounted for all of the
2 gunshots and all of the bullets, in this particular case.

3 Q. I want to turn your focus to the autopsies that you
4 performed in this case.

5 A. Okay.

6 Q. Did you perform autopsies on Liliana Rodriguez and
7 Ammerli Garcia-Munoz?

8 A. Yes.

9 Q. When did you perform these autopsies?

10 A. All right. The autopsy on Liliana Rodriguez was on
11 August 1st, 2016.

12 Q. And when was the one on Ammerli Garcia-Munoz?

13 A. That was on May 22nd, 2017.

14 Q. Okay. Let's start with Liliana Rodriguez.

15 A. Okay.

16 Q. Did a medical examiner go to the scene where she
17 passed away?

18 A. No. She was transported to the hospital, and so she
19 came to our office from the hospital.

20 Q. And why was it that she would have been transported to
21 the hospital as opposed to coming straight from the scene?

22 A. She either was transported by emergency medical
23 services or by the vehicle that she was already in when she
24 was shot.

25 Q. Did an investigator from your office go to the scene?

1 A. No.

2 Q. Was she seen on the first day she arrived at your
3 office?

4 A. Well, she came in on, I believe it was, July 31st.

5 Q. Do you know or do you not know, because if you don't
6 know --

7 A. I do have it. She came in on July 31st, and then I
8 examined her on August 1st.

9 Q. When you examined her externally, did you know or
10 notice any distinguishing injuries?

11 A. Yes. She had a gunshot wound, entrance wound on her
12 left arm. She had an abrasion or scrape and a contusion or
13 an ecchymosis, a bruise, on her right arm. And then she
14 also had some faint brown bruises on her thighs and an
15 abrasion or scrape on the left side of her torso.

16 **THE COURT:** All right. One moment, Doctor. If
17 counsel could approach briefly.

18 (WHEREUPON, a bench conference was had out of the
19 hearing of the jury, as follows:)

20 **THE COURT:** It is possible that the doctor may
21 just be reading. That doesn't bother me if it doesn't
22 bother y'all. Anyone have any thoughts about that?

23 **MR. HAWKINS:** Just reading from --

24 **THE COURT:** She might just be -- you know, which
25 I understand, but I don't know that that's what we do in

1 this situation. So no one objected, so, you know, I'm okay
2 with it if no one objects, but I wanted to put it out there.

3 **MR. SAFEEULLAH:** My next question is going to be
4 to admit the report into the record so it's publishable and
5 she can read from it. I mean, I tried to tell her that
6 reading from the records was not something we could do, but
7 my next question is to have it admitted into evidence.

8 **THE COURT:** Yeah, and so if we do it that way
9 where things come into evidence, then it's fair game and she
10 can read from it, right? So we'll do it that way.

11 All right. Thank you.

12 (WHEREUPON, the bench conference concluded, and
13 the following took place within the presence and hearing of
14 the jury:)

15 **BY MR. SAFEEULLAH:**

16 Q. Dr. Carney, did you create and author an autopsy
17 report for the autopsy that you did on Liliana Rodriguez?

18 A. I did.

19 Q. Can you turn to the first binder in front of you and
20 find United States Exhibit 350. And those other documents
21 that are on the table, you can push those aside. I think
22 you'll only need United States Exhibit 350.

23 A. Okay. Okay. All right.

24 Q. And before you begin looking at 350, the other
25 documents that are on the table there, can you just remove

1 them or turn them over?

2 A. Sure, I can do that.

3 Q. And can you look at United States Exhibit 350, please.

4 A. Yes, sir. All right.

5 Q. What is United States Exhibit 350?

6 A. This is the autopsy report that I completed on Liliana
7 Rodriguez.

8 Q. And how do you know that?

9 A. I recognize this document.

10 **MR. SAFEEULLAH:** Your Honor, I move to admit into
11 evidence United States Exhibit 350.

12 **THE COURT:** All right. Absent objection,
13 Government Exhibit 350 will be admitted and it may be
14 published.

15 (Government Exhibit 350 was marked and admitted
16 into evidence.)

17 **BY MR. SAFEEULLAH:**

18 Q. Can you also look at United States Exhibits 351, 353,
19 355, and 358.

20 A. Yes.

21 Q. What are those exhibits?

22 A. These are photographs that were taken at my office of
23 Ms. Rodriguez's entrance wound, the bruise and the scrape on
24 her shoulder, and pictures of the outside of the bag in
25 which her body was transported.

1 Q. And how do you know that?

2 A. It has her name and our specific case number.

3 **MR. SAFEEULLAH:** Your Honor, at this time, I'd
4 move to admit into evidence United States Exhibit 351, 353,
5 355, and 358, and I request permission to publish them to
6 the jury.

7 **THE COURT:** All right. Absent objection, the
8 following exhibits will be admitted: Government
9 Exhibits 351, 353, 355, and 358. They may be published.

10 (Government Exhibits 351, 353, 355, and 358 were
11 marked and admitted into evidence.)

12 **BY MR. SAFEEULLAH:**

13 Q. Dr. Carney, we're not going to go through all of the
14 photographs that were taken during this autopsy, but we're
15 going to go through a few of them.

16 A. Okay.

17 **MR. SAFEEULLAH:** If we could pull up
18 United States Exhibit 351.

19 **BY MR. SAFEEULLAH:**

20 Q. Can you tell us what we're looking at in this
21 photograph?

22 A. So this a photograph of the outside of the bag that
23 her body was placed in to transport to our office, and
24 you'll see it has her last name and our unique medical
25 examiner case number for her, as well as this yellow tag

1 which, once the bag is opened, will be placed around her
2 right ankle.

3 **MR. SAFEEULLAH:** Can we publish
4 United States Exhibit 353, please.

5 **BY MR. SAFEEULLAH:**

6 Q. And can you tell us what we're looking at in this
7 photograph?

8 A. So this is her right ankle with that same yellow tag
9 as well as a bar-coded tag that has her name and her unique
10 case number on it.

11 Q. Now, you've previously testified that there was an
12 entry wound on her left shoulder. How are you able to
13 determine what an entry wound or an exit wound is?

14 A. So an entrance wound typically is round to ovoid, kind
15 of a punched-out wound where the bullet has entered the skin
16 and literally pushed the skin and soft tissue in and out of
17 the way. There's usually an abrasion or a scrape around it.

18 So if you think about when you push on your skin, how
19 the edges kind of bend around where you're pushing, so it
20 usually has that abrasion ring; whereas an exit wound is
21 literally where the skin usually just splits open enough for
22 the bullet to get out, unless the skin is up against
23 something, then it might be a little more open.

24 But typically, it's just like a little tear in the
25 skin.

1 Q. And why is it important, in your line of work, to know
2 the difference between an entry wound and an exit wound?

3 A. Well, it's important because we need to determine how
4 many times the person's been shot and also to understand
5 what direction the bullet is traveling. So if you know what
6 the entrance and the exit is, you could tell which side of
7 the body it entered on.

8 Obviously, we'll document what was injured in the
9 process and then where the bullet ended up.

10 Q. Have there been times when you have not been able to
11 determine what an entrance or exit wound is?

12 A. Yes. So when someone is shot through something, like
13 a car door or a window or a wall, it tends to deform the
14 bullet and the bullet will start to tumble so that when it
15 enters the body, it's at a different angle, and the entrance
16 wound can appear rather abnormal.

17 **MR. SAFEEULLAH:** And before I publish this next
18 exhibit, I just want to let the Court and the jury know that
19 it's graphic. But the United States would like to publish
20 United States Exhibit 358.

21 **BY MR. SAFEEULLAH:**

22 Q. Can you tell us what we're looking at in this
23 photograph.

24 A. So you can see kind of her dark hair off to the right
25 of the photo. This is her left shoulder, and that is the

1 entrance wound where the bullet entered her body.

2 Q. And if you could explain to us kind of what this
3 photograph in front of us, how we can tell this is an
4 entrance wound as opposed to an exit wound.

5 A. Well, like I mentioned before, it has kind of that
6 ovoid punched-out look. And along the top of it, you can
7 see where there's an edge where the top layer of skin's been
8 scraped off, and that's where the bullet kind of scraped the
9 skin as it entered.

10 Q. Based on that photograph and what you saw, were you
11 able to determine how far the shooter was away from Liliana
12 Rodriguez?

13 A. Well, in this case, this would be a distant or
14 indeterminate range wound.

15 When we look at gunshot wounds, we're looking for the
16 things that come out of the end of the gun in addition to
17 the bullet. So soot and partially burned or unburned
18 particles of gunpowder that could strike the skin and cause
19 little pinpoint abrasions around the skin, usually you see
20 those at a much closer distance.

21 So soot, you'll see from a few inches up to about a
22 foot. From a few inches out to about 2 to 3 feet, you might
23 see those little pinpoint abrasions where the gunpowder has
24 struck the skin. But beyond about 3 feet or so, depending
25 on the firearm, to whatever distance, it all kind of looks

1 the same. There's no soot or gunpowder stippling around it.

2 So this entrance wound would be greater than 3 feet
3 but I'm not really sure how far away.

4 Q. What's the term you-all use for when it's close and
5 you see the soot on the person or on the body?

6 A. Well, if the gun is right up on the skin, I'll call it
7 a contact wound. If it's close to where soot is on the
8 skin, I'll usually call it close range. If it's soot and
9 gunpowder stippling or just gunpowder stippling, I'll
10 usually calling it intermediate range.

11 Q. And what do you call it if you're not able to
12 determine how close the shooter was?

13 A. Then I will call it distant or indeterminate.
14 Indeterminate because there could be something -- it could
15 have been fairly close but there was something in between
16 the skin and the gun when it was fired, like a pillow or
17 glass or something that caused that to not transfer to the
18 skin.

19 Q. And what was your determination with Ms. Liliana
20 Rodriguez, again?

21 A. I would determine hers to be distant or indeterminate
22 range.

23 Q. And why did you make that determination?

24 A. There's no soot or gunpowder stippling around her
25 entrance wound.

1 Q. When you conducted the internal examination, were you
2 able to tell the path of the bullet?

3 A. Yes.

4 Q. And how were you able to do that?

5 A. So when we opened up her body, you could see the hole
6 where it came through on the left side and entered her chest
7 cavity, and then the injury to the organs that it went
8 through, and as well as a hole on the right side of the
9 chest cavity where it exited her chest, and then the bullet
10 ended up in her right arm.

11 Q. Were you able to recover the bullet?

12 A. Yes.

13 **MR. SAFEEULLAH:** Your Honor, may I approach this
14 witness?

15 **THE COURT:** You may.

16 **BY MR. SAFEEULLAH:**

17 Q. I'm passing up what's previously been marked as
18 United States Exhibit 21. Can you look at this exhibit?

19 A. Yes.

20 Q. What is that exhibit in front of you?

21 A. So this envelope right here was the envelope that I
22 put the bullet from her right arm in, and it was sealed with
23 evidence tape, and I signed it.

24 **MR. SAFEEULLAH:** Your Honor, at this point, I'd
25 move to admit into evidence United States Exhibit 21 and

1 request permission to publish it to the jury.

2 **THE COURT:** All right. Absent objection,
3 Government Exhibit 21 will be admitted and it may be
4 published.

5 (Government Exhibit 21 was marked and admitted
6 into evidence.)

7 **MR. SAFEEULLAH:** Can we also pull up
8 United States Exhibit 355.

9 **BY MR. SAFEEULLAH:**

10 Q. Can you tell us what we're looking at in this
11 photograph?

12 A. So that dark, kind of linear area, that's a scrape, an
13 abrasion that's dried and dark now. And that red and blue
14 area around it is a bruise. And underneath that bruise was
15 where the bullet was located in her right arm.

16 Q. Now, you mentioned that this bullet passed through her
17 body and ended up in this shoulder. Can you tell us the
18 effect of the bullet passing through her body, how that
19 would have affected her?

20 A. Well, it went through her left rib 5 on the side when
21 it entered the chest. It injured both the lower and upper
22 lobes of the left lung. It went through the pericardium,
23 which is the fibrous sac that surrounds the heart. It went
24 through the left atrium of the heart which is the top
25 chamber on the left side of the heart. It went through the

1 upper lobe of the right lung, so the top of the right lung,
2 and then went through -- out of the chest between the third
3 and fourth ribs and broke the third rib on the right before
4 it stopped in the arm.

5 She bled significantly from her lungs and her heart
6 being entered. She had 1,180 milliliters of blood in the
7 right side of her chest, so over a liter of blood that
8 surrounded her heart, made it hard for her lungs to expand
9 with all that fluid there.

10 She had 500 milliliters, so half a liter of blood,
11 around her left lung on the left side of her chest; and then
12 she had a little bit of blood, 45 milliliters, in the
13 pericardial sac around the heart.

14 She also was breathing after she was shot because she
15 has blood in her lungs, like in her airways, where she has
16 aspirated that blood, breathing after she was shot.

17 Q. How were you able to determine how much blood was in
18 these different organs of her body?

19 A. So when we open up the ribs on the front, we will
20 actually scoop out the blood and measure it in a container
21 to see how much blood is there. And this is a significant
22 amount of blood, probably about a third of her blood volume
23 that's no longer in her arteries and veins. It's kind of in
24 her chest cavity.

25 Q. Did the bullet take a horizontal path from one arm

1 across her body to the other arm?

2 A. It did go left to right and a little bit upward.

3 Q. So by "going upward," it took a -- I guess an upward
4 trajectory from one arm to the other shoulder?

5 A. Yes.

6 Q. And does that give you any indication of how the
7 shooter was shooting at her?

8 A. No. Because there are a lot of possibilities
9 depending on the positioning of her body and where the
10 shooter is. But we do know that the bullet entered on the
11 left and ended up on the right, but I can't say anything
12 about where the shooter is.

13 Q. The bullet that you collected from her shoulder, what
14 happened to that bullet when you finished examining Liliana
15 Rodriguez?

16 A. So we clean it off. We take a picture of it. And
17 then I seal it in an envelope with a label that has her name
18 and her specific case number on it, and then I will actually
19 initial and date the evidence seal. And then it can be
20 transferred to law enforcement, and they can take it to a
21 crime lab to be further analyzed.

22 Q. Dr. Carney, in your expert opinion, what was Liliana
23 Rodriguez's cause of death?

24 A. Her cause of death is gunshot wound of the left arm.

25 Q. And of the left arm is where it penetrated her body?

1 A. Yes, continuing into the chest.

2 Q. I want to change focus now to another autopsy that you
3 performed and another autopsy report that you wrote.

4 Can you look at United States Exhibit 554?

5 A. Okay.

6 Q. Have you reviewed that report?

7 A. Yes.

8 Q. What is that report?

9 A. This is my autopsy report on Mr. Ammerli Garcia-Munoz.

10 Q. How do you know that?

11 A. I recognize this document.

12 **MR. SAFEEULLAH:** Your Honor, I'd move to admit
13 into evidence United States Exhibit 554, and I request
14 permission to publish it to the jury.

15 **THE COURT:** All right. Absent objection, 554
16 will be admitted and may be published.

17 (Government Exhibit 554 was marked and admitted
18 into evidence.)

19 **BY MR. SAFEEULLAH:**

20 Q. Dr. Carney, you previously testified about how bodies
21 arrive at your office. Did Mr. Garcia-Munoz come from the
22 scene or did he come from the hospital?

23 A. He came from the hospital.

24 Q. And based on your experience, what does this mean,
25 again?

1 A. Usually, it's when lifesaving measures have been
2 initiated. And in this case, there were some that were
3 initiated. And then he was transported, I believe for
4 safety reasons in this case, for the emergency medical
5 services personnel.

6 Q. Otherwise they would have examined him where he was
7 first encountered?

8 A. Yes.

9 Q. And do you know where that was?

10 A. I don't see that listed right here. I do -- it did
11 say that he was in a parking lot in a vehicle.

12 Q. And for safety reasons, they had to move him out of
13 the parking lot to the hospital?

14 A. The scene itself became unsafe, according to what we
15 were told.

16 Q. When did his body arrive at your facility?

17 A. His body arrived at our facility, I believe it was, on
18 the 20th -- oh, no -- 21st of May.

19 Q. And was he stored in the same fashion that you told us
20 about earlier today?

21 A. Yes.

22 Q. And that would have been in a cooler that's
23 approximately 40 degrees?

24 A. Yes.

25 Q. And when did you perform your examination of him?

1 A. I performed my examination of him on May 22nd.

2 Q. Can you look at United States Exhibit 555.

3 A. Yes.

4 Q. What is that exhibit?

5 A. This is the photograph of the outside of the bag in
6 which he was transported. It has his name and his unique
7 case number.

8 Q. And how do you know that?

9 A. This is one that I recognize from my photos.

10 **MR. SAFEEULLAH:** Your Honor, at this point I move
11 to admit into evidence United States Exhibit 555 and request
12 permission to publish it to the jury.

13 **THE COURT:** All right. Absent objection,
14 Government Exhibit 555 will be admitted and may be
15 published.

16 (Government Exhibit 555 was marked and admitted
17 into evidence.)

18 **BY MR. SAFEEULLAH:**

19 Q. Is this the photograph that you were just talking to
20 us about?

21 A. Yes.

22 Q. And what is distinctive about this photograph in
23 relation to Mr. Ammerli Garcia-Munoz?

24 A. So this, like I said, has his name and his unique
25 medical examiner case number specific for him.

1 Q. Did you begin this autopsy the way that you told us
2 that you normally do autopsies where you examine the
3 external portion of the body?

4 A. Yes.

5 Q. And what did you observe when you examined the
6 external body of Mr. Garcia-Munoz?

7 A. Mr. Garcia-Munoz had multiple gunshot wounds of his
8 body.

9 Q. And where were the gunshot wounds centralized to?

10 A. There were quite a number on his torso.

11 Q. Were these entrance wounds or exit wounds?

12 A. A little bit of both. More entrance than exit.

13 Q. Based on the numerous wounds that you saw, did you
14 find it prudent to conduct an x-ray?

15 A. Yes.

16 Q. And why did you do that, again?

17 A. With numerous entrance wounds that did not have
18 corresponding number of exit wounds, I expected there were
19 projectiles still in his body.

20 Q. Can you look at United States Exhibit 566.

21 A. Yes.

22 Q. What are you looking at in that photograph?

23 A. I'm looking at the full body x-ray of
24 Mr. Garcia-Munoz.

25 Q. How do you know it's the full body x-ray of

1 Mr. Garcia-Munoz?

2 A. This is one that I recognize from my office.

3 **MR. SAFEEULLAH:** Your Honor, I move to admit into
4 evidence United States Exhibit 566, and I request permission
5 to publish it to the jury.

6 **THE COURT:** All right. Absent objection,
7 Government Exhibit 566 will be admitted and may be
8 published.

9 (Government Exhibit 566 was marked and admitted
10 into evidence.)

11 **MR. SAFEEULLAH:** If we could pull up
12 United States Exhibit 566.

13 **BY MR. SAFEEULLAH:**

14 Q. Is this the x-ray that you were just talking to us
15 about?

16 A. Yes, sir.

17 Q. And if we zoom in on the head and upper torso, can you
18 explain to us what we're looking at?

19 A. Yes. So you can see his bones, his skeletal elements
20 there. All of those bright white areas, those are bullets
21 or jacket or bullet and jacket fragments.

22 Q. And where do you see the bright white objects that are
23 bullet or jacket fragments in this photograph?

24 A. He has one with some fragments in his head. He has
25 one in his right shoulder. He has -- it's actually a jacket

1 fragment up there in the kind of the top of his chest.
2 There's a bullet that's actually in his spine down below
3 that. There's bullet and jacket pieces along the left side
4 of his torso, both higher up where you can tell the soft
5 tissue is a little disrupted, and then also down lower.

6 And there's two that are on the right side of his
7 abdomen in this photograph, and then there's also some
8 bullet fragments that are down a little closer, like in his
9 pelvis.

10 Q. When we look at the head, am I correct, I believe that
11 you said there was only one bullet in the head?

12 A. Yes. So it's a bullet, and then all the little pieces
13 are just little fragments that have broken off.

14 Q. Can you tell from this x-ray whether the bullet is in
15 the brain or whether it's in the skull?

16 A. No.

17 Q. So what was your next step, if you can't tell from
18 this x-ray exactly where the bullet is?

19 A. It looks like it's just under the skull, but the best
20 way to -- really to know for certain and also to be able to
21 recover it is to perform an autopsy, because we do actually
22 incise the scalp and reflect it and then cut into the skull
23 and remove that so that we can look at the brain and look
24 for bleeding and for bullets.

25 Q. Now, you mentioned that there were multiple entrance

1 and exit wounds to Mr. Garcia-Munoz. How many entrance
2 wounds did you find?

3 A. I believe there were 11.

4 Q. How many exit wounds did you find?

5 A. I think I only had four that were exits.

6 Q. Okay. So if there are 11 entrance and 4 exit wounds,
7 then that means there are 7 projectiles or fragments that
8 may have been left inside of Mr. Garcia-Munoz?

9 A. Yes.

10 **MR. SAFEEULLAH:** Can we turn to the diagram that
11 is in United States Exhibit 554. And if you could -- we can
12 blow this up.

13 **BY MR. SAFEEULLAH:**

14 Q. Can you tell us what we're looking at in this
15 photograph?

16 A. So this is my documentation of where his entrance and
17 exit wounds are located. And I tried to approximate the
18 shape and size of those.

19 Q. And what was the first gunshot wound that you noted in
20 your report?

21 A. So I don't know in which order these gunshots actually
22 occurred, but the way I organized my report is I start at
23 the head and work my way down towards the feet. So the
24 first one that I list in my report is actually the one to
25 the back of his head, on the left side of the head.

1 Q. And were you able to determine whether the one to the
2 back of the head was an entrance wound or an exit wound?

3 A. Yes. It was an entrance wound.

4 Q. And how were you able to determine that it was an
5 entrance wound?

6 A. So the way the bullet -- this actually broke through
7 the skull, and the skull has a very characteristic
8 appearance when it's an entrance versus an exit wound. So
9 when I examined the skull, I could tell that that was an
10 entrance wound. And there's actually still a bullet
11 retained in his head as a result of this entrance wound.

12 Q. When the bullet traveled through the back of his
13 skull, what did it impact in his head?

14 A. So it fractured through the occipital bone at the back
15 of the skull. It went through the back of the brain, both
16 the left and right side, so the left and right occipital
17 lobes; that's what we call that part of the brain at the
18 back. And then it also went through the right parietal lobe
19 which is just in front of the back of the brain. And then
20 it broke through that fibrous covering that stuck to the
21 skull; it's called the dura mater. But then the bullet
22 stopped, and that's where I found it.

23 Q. Where are the occipital lobes? Am I saying that
24 right?

25 A. Occipital lobes, yes.

1 Q. What are they?

2 A. So that's where you process what your eyes see, so
3 that's very important for your vision.

4 Q. And what effect would a bullet damage to the occipital
5 lobe have on a person?

6 A. Well, it's going to disrupt his vision. The problem
7 is, when a bullet enters the body, it tends to carry a lot
8 of energy with it. And that path, even though there's a
9 straight path from the bullet, it tends to expand and then
10 contract. So when that happens, it can cause some issue
11 with consciousness. You know, he might have lost
12 consciousness as a result of this bullet to the head.

13 He also had bleeding on his brain. It's listed in my
14 report as subarachnoid hemorrhage, so it's bleeding
15 underneath that clear covering of the brain where he was
16 shot. And it fractured his skull, of course, where the
17 bullet entered.

18 Q. Would this gunshot have been fatal?

19 A. Yes.

20 Q. And why is that?

21 A. Well, like I mentioned, because of the kind of the
22 ballistic trauma where it expands and then contracts, it can
23 cause additional trauma to the brain, so not just to your
24 vision, but also may cause you to lose consciousness.

25 And if he lived long enough, the brain responds to

1 injury by bleeding and swelling. And unfortunately, within
2 the fixed nature of the skull, there's really nowhere for
3 the brain to go when it swells or for that blood to push on
4 except to push down and out through the top of the skull
5 down to the spinal cord. And the base of the brain where
6 you really control your heartbeat and your breathing, once
7 that gets pressed on, over time, it causes death.

8 **MR. SAFEEULLAH:** Your Honor, may I approach this
9 witness?

10 **THE COURT:** You may.

11 **BY MR. SAFEEULLAH:**

12 Q. Dr. Carney, did you recover the bullet from
13 Mr. Garcia-Munoz's head?

14 A. I did.

15 Q. Can you look at United States Exhibit 53?

16 A. Yes.

17 Q. What is that exhibit?

18 A. So this is the bullet that I recovered from his head,
19 and here's the packaging from where it came from my office.

20 **MR. SAFEEULLAH:** Your Honor, I move to admit into
21 evidence United States Exhibit 53, and I request permission
22 to publish it to the jury.

23 **THE COURT:** Absent objection, Government
24 Exhibit 53 will be admitted and may be published.

25 (Government Exhibit 53 was marked and admitted

1 into evidence.)

2 **BY MR. SAFEEULLAH:**

3 Q. In addition to this injury to his head, did you
4 observe any other significant injuries to Mr. Garcia-Munoz?

5 A. Yes. There were a number of other gunshot wounds.

6 Q. And were these entrance and exit wounds?

7 A. Yes.

8 **MR. SAFEEULLAH:** If we could pull up Dr. Carney's
9 report, go to page 2 and paragraph 1C.

10 **BY MR. SAFEEULLAH:**

11 Q. With one of the gunshot wounds -- I think you had
12 documented it as 1C -- what did that bullet or bullet
13 fragment impact?

14 A. So that bullet entered the axilla, which is a medical
15 term for the armpit, and went into the chest again. It hit
16 left rib 4. It hit the left lung as well as the primary
17 airway that comes into the left lungs of the left bronchus,
18 and the left pulmonary artery which is the primary artery
19 that supplies blood to the left lung.

20 It also injured the aorta, which is the largest artery
21 in the body that comes out of the heart to supply oxygenated
22 blood to the rest of the body, and it injured the left side
23 of the spine. So I mentioned here the -- I think that
24 the -- yeah, the spine, so the thoracic spine.

25 And in this case, I did recover a bullet from the

1 spine, and there was 520 milliliters of blood in the left
2 chest cavity, so a little over half a liter of blood around
3 his lung.

4 He also had bleeding and bruising of his spinal cord
5 where the bullet impacted the spine. And like in
6 Ms. Rodriguez's case, there is, again, aspiration of blood
7 from where the lung has been injured and he's breathing
8 blood into his lung as he survives for at least some short
9 period of time after being shot.

10 Q. Can we look at 1D and you explain to us what you
11 observed when you examined this gunshot wound.

12 A. All right. In D, we are looking at a gunshot wound on
13 the left side of the torso. So that's just kind of a
14 general term for the chest and abdomen. This one enters
15 through the left ribs 4 and 5. It went through the
16 pericardium, again, that fibrous sac surrounding the heart;
17 injured the heart and, again, the aorta, so the heart itself
18 which is pumping blood to the body and aorta, that large
19 artery.

20 And in this case, there's, again, the bleeding into
21 the left chest cavity that we've talked about, a little over
22 half a liter. And then there's coagulated blood in that
23 pericardial sac around the heart.

24 Q. Would the hemorrhaging or the loss of blood associated
25 with this gunshot wound have been fatal?

1 A. This isn't a large amount of blood given the estimated
2 blood volume for an adult male. But we've also already
3 talked about the injury to his head which may have caused
4 him to die before he could bleed much more into his chest.

5 Q. So the gunshot wound to the head basically stopped him
6 from breathing in more blood from these other gunshot
7 wounds?

8 A. Yes.

9 Q. Were you able to collect any foreign objects from his
10 body?

11 A. Yes.

12 Q. I'm passing up what's previously been marked as
13 United States Exhibits 42 through 52. Can you look at these
14 exhibits?

15 A. Yes. (Witness complies.)

16 Q. Have you looked at those exhibits?

17 A. Yes.

18 Q. What are they?

19 A. Most of these are bullets, bullet and jacket fragments
20 from his body, and there's one metal fragment that was
21 recovered from the side of his body. It's not clear to me
22 if that's truly a bullet fragment or if it's a fragment of
23 metal that was forced into his skin as a result of being
24 shot through something.

25 Q. And how do you know these exhibits are bullet

1 fragments and also that piece of metal that you just
2 described?

3 A. They all show the labels from my office with his name,
4 his unique case number, and then the description that I gave
5 it before it left my office.

6 **MR. SAFEEULLAH:** Your Honor, I move to admit into
7 evidence United States Exhibits 42 through 52 and request
8 permission to publish them to the jury.

9 **THE COURT:** All right. Absent objection,
10 Government Exhibits 42 through 52 will be admitted and may
11 be published.

12 (Government Exhibits 42 through 52 were marked
13 and admitted into evidence.)

14 **BY MR. SAFEEULLAH:**

15 Q. If we could go back to your report and look at what
16 you labeled 1E, can you explain to us what we are -- or what
17 you found when you examined that gunshot wound?

18 A. All right. So this is a gunshot wound. It's also on
19 the left side of the torso. This one, it's an entrance
20 wound, and it had a number of abrasions or scrapes as well
21 as ecchymosis, or bruises, and puncture wounds around it
22 along with some metal fragments that were lodged in his
23 skin, which is where one of those pieces of evidence came
24 from.

25 The bullet entered through the left side of the torso

1 through just that skin and soft tissue and went through to
2 the back, but it did not enter the chest or abdominal
3 cavity. So there's an exit wound on the back, but there
4 were also bullet and jacket fragments along the wound path
5 that I recovered.

6 Q. What would an injury like this have on someone?

7 A. This is going to bleed, it's going to hurt. But it
8 didn't injure any vital organs.

9 Q. Can we look at what you've marked as 1F in your
10 report.

11 A. Yes.

12 Q. Can you tell us what this gunshot wound injured in
13 Mr. Garcia-Munoz?

14 A. All right. So this one is on the left side of the
15 chest right here. So this one entered his skin and soft
16 tissue, and it stops at his sternum, so it really doesn't go
17 very far. The wound itself was only about an inch and a
18 quarter inch from the midline, and it stopped there at the
19 sternum.

20 Q. Were you able to collect a bullet fragment or bullet
21 from this injury?

22 A. There were no bullet or jacket fragments along this
23 very short wound path, so it's possible that may have fallen
24 out in the process of moving for CPR, because they're
25 pressing on the chest trying to potentially save him there.

1 Q. Can we look at what you've marked in your exhibit as
2 1G.

3 A. Yes.

4 Q. Can you tell us what injuries are associated with this
5 gunshot wound?

6 A. So 1G is on the left side of the chest. It's a little
7 lower down than the one we just talked about. This one
8 enters and damages the stomach or injures the stomach, the
9 pancreas, the right adrenal gland, the right side of the
10 diaphragm, and the bullet ends up in the right side of his
11 back.

12 So as a result of this one, the stomach contents are
13 spilling into the abdominal cavity. There's a little bit of
14 bleeding in the abdominal cavity, and there's also bleeding
15 in the -- kind of along his back where the kidneys and the
16 adrenal glands sit, and the pancreas. And it fractured a
17 rib on the right side, right rib 11.

18 Q. Did you determine whether there was an exit wound
19 associated with this projectile that caused this wound?

20 A. There was not an exit wound because the bullet was
21 still in his body.

22 Q. And did you collect that fragment or bullet?

23 A. Yes, sir.

24 Q. And was that one of the exhibits that you previously
25 looked at on the stand today?

1 A. Yes.

2 Q. What effect would this gunshot have had on someone?

3 A. Well, this is going to cause bleeding, like I said,
4 into his abdomen and along his back. And his stomach
5 contents are spilling out into his abdominal cavity, so had
6 he survived, that would have put him at risk for an
7 infection.

8 Q. Can we look at what you've marked as 1H in your
9 report.

10 A. Yes.

11 Q. And you tell us what injury this would have caused to
12 Mr. Garcia-Munoz.

13 A. So this is an entrance wound on the right side of the
14 chest. This one enters through right ribs 5 and 6, so
15 fractures both of those. Injures his right lung, his
16 diaphragm, his liver, ribs 6 and 7 along the side, and then
17 it exits through the right side of the back.

18 Q. And were you able to collect the projectile from this
19 gunshot wound?

20 A. No. There was no projectile with this one because it
21 exited the body.

22 Q. And how much blood did he lose based on this injury?

23 A. Well, this one, there was only 380 milliliters of
24 blood in the right chest cavity, so less than half a liter.
25 There were numerous lacerations of the liver and also of the

1 diaphragm, so the liver was coming up into the right side of
2 the chest. There was a little bit of bleeding in the
3 abdomen.

4 And with the exit wound, it is possible that there was
5 additional bleeding at the scene, but there's not -- it
6 wasn't retained in his body.

7 Q. Would this have been a fatal wound or fatal gunshot?

8 A. Yes, this could be fatal.

9 Q. Can we look at what you've marked in your report as
10 1I.

11 A. Yes.

12 Q. Can you explain this to us?

13 A. So this one is on the left side of the abdomen or
14 belly. This one, the bullet entered, and it injured the
15 omentum which is that fatty soft tissue that covers and
16 protects your intestines. It actually basically grazed the
17 large intestine. It didn't puncture through it so that
18 stool came out, but it just kind of grazed the intestine.
19 And then it went out the right side of the torso. Or
20 actually -- I'm sorry -- it went through the soft tissue but
21 it stopped there, so I actually found a bullet in the right
22 side of the torso.

23 Q. And was that one of the exhibits that you looked at
24 here in court today?

25 A. Yes.

1 Q. And what effect would this have had on someone?

2 A. This could cause bleeding, and it would be painful.

3 Q. Can we look at what you've marked in your report as
4 1J.

5 A. Yes.

6 Q. Can you explain to us what happened with this gunshot
7 wound.

8 A. So J is, again, on the right side of the abdomen.
9 It's down a little lower. This is one that we kind of
10 mentioned earlier where there are scrapes or abrasions
11 around it as well as puncture wounds, and likely due to the
12 fact that this bullet traveled through something before it
13 hit him because the two wounds connect, but I can't tell
14 which one is the entrance and which one is the exit.
15 There's two wounds, and they just go through the skin and
16 soft tissue. They don't enter the abdominal cavity.

17 Q. And you were not able to recover any bullet fragments
18 from this gunshot wound?

19 A. No, I was not.

20 Q. Can we go back to Diagram 1 in your report.

21 **MR. SAFEEULLAH:** And if we could blow that up.

22 **BY MR. SAFEEULLAH:**

23 Q. Where are the majority of the injuries on
24 Mr. Garcia-Munoz?

25 A. So most of the entrances are along the left side of

1 his torso along the front. He does have the one to the back
2 of the head, one to the back of the neck, and the right arm.
3 But most of the rest of them are on the left side of his
4 torso.

5 Q. And based on the path of these wounds, were you able
6 to tell like which direction the person firing the firearm
7 was or which path the bullet took?

8 A. The -- most of the bullets go left to right.

9 Q. And they go from the front to the back of his body?

10 A. Yes. With the exception of the one to the back of the
11 head and the back of the neck, everything goes front to
12 back.

13 Q. So there are really only two entrance wounds on the
14 back, and that's the one to the back of the head and to the
15 back of the neck?

16 A. Yes.

17 Q. In addition to the wounds that you observed on Liliana
18 Rodriguez and also on Mr. Garcia-Munoz, did you also examine
19 their other vital organs to determine their cause of death?

20 A. Yes.

21 Q. And based on your examinations of both of them, what
22 was your conclusion as to their manner of death?

23 A. So their manner of death is homicide.

24 Q. And homicide by what?

25 A. So homicide is a classification of death. On a

1 Tennessee Death Certificate, there are six possibilities.
2 There's homicide, suicide, accident, natural, could not be
3 determined, and pending investigation. But the pending
4 investigation is really just until you have more information
5 or toxicology results, whatever we're waiting on to get it
6 into one of those top five manners.

7 Homicide means that the person died at the hands of
8 someone else, so someone else fired the gun that caused
9 their deaths, not themselves.

10 **MR. SAFEEULLAH:** If you could give me one moment,
11 Your Honor.

12 **THE COURT:** Yes, sir.

13 (Respite.)

14 **BY MR. SAFEEULLAH:**

15 Q. And what was the cause of death for Mr. Garcia-Munoz?

16 A. Mr. Garcia-Munoz's cause of death is multiple gunshot
17 wounds.

18 **MR. SAFEEULLAH:** I don't have any additional
19 questions at this time, Your Honor.

20 **THE COURT:** All right. Thank you,
21 Mr. Safeeullah.

22 Mr. Ganguli?

23 **MR. GANGULI:** No questions, Your Honor.

24 **THE COURT:** Thank you. Ms. Hood-Schneider,
25 Mr. Lucas?

1 **MR. LUCAS:** No questions, Your Honor.

2 **THE COURT:** All right. Thank you. And
3 Mr. Bloom?

4 **MR. BLOOM:** No questions, Your Honor.

5 **THE COURT:** All right. Dr. Carney, thank you.
6 You may step down.

7 (The witness stepped down.)

8 **THE COURT:** All right. Mr. Safeeullah?

9 **MR. SAFEEULLAH:** The United States calls Khalid
10 Mozeb.

11 And I'm cognizant of the time, Your Honor.

12 **THE COURT:** Yes, sir. We'll get a start, we'll
13 go 15 minutes-ish, something like that. Maybe 20, max.

14 **MR. SAFEEULLAH:** Thank you.

15 (The witness was sworn.)

16 * * *

17 **KHALID MOZEB,**
18 **was called as a witness, and after having been first duly**
19 **sworn, testified as follows:**

20 **DIRECT EXAMINATION**

21 **QUESTIONS BY MR. SAFEEULLAH:**

22 Q. Good afternoon. Can you please state and spell your
23 last name for the record.

24 A. Khalid Mozeb.

25 Q. And if you could, pull that microphone a little bit

1 closer to you.

2 A. Khalid Mozeb.

3 Q. Thank you. Where do you work?

4 A. Antioch Market.

5 Q. And where is that located?

6 A. 929 Richard Road, Antioch.

7 Q. And what is your role at that market?

8 A. Owner.

9 Q. And what types of goods do you sell at that market?

10 A. Fruit, vegetables.

11 Q. How long have you owned or operated that market?

12 A. I think since 2012 maybe.

13 Q. Would you have owned and operated that market on
14 May 27th, 2017?

15 A. Yes.

16 Q. In one of the binders in front of you, there are some
17 exhibits. Can you look for the one that has 1239 in it.

18 **THE COURT:** If you want to pick that one up,
19 carry it over, and find 1239. It's kind of heavy. Thank
20 you.

21 **THE WITNESS:** You're welcome.

22 **BY MR. SAFEEULLAH:**

23 Q. Are you able to see 1239?

24 A. 1239, I see.

25 Q. What is that photograph?

1 A. That is -- there is a red sign here next to our store.

2 Q. Your market is in that photograph?

3 A. Yes.

4 **MR. SAFEEULLAH:** Your Honor, I move to admit
5 United States Exhibit 1239 into evidence and request
6 permission to publish it to the jury.

7 **THE COURT:** One question. Would you describe
8 that as a -- is it a map basically? Is that what that is?

9 **THE WITNESS:** This is a map, yes.

10 **THE COURT:** Overhead map? Kind of overhead view?

11 **THE WITNESS:** Yes. That's for the area, yeah.

12 **THE COURT:** Yeah. Okay.

13 All right. Any objection? All right. Without
14 objection, Government Exhibit 1239 is admitted and may be
15 published.

16 (Government Exhibit 1239 was marked and admitted
17 into evidence.)

18 **BY MR. SAFEEULLAH:**

19 Q. Can you show us where your store is on this map?

20 A. What am I doing, now?

21 Q. Can you tell us where your store is on that map, tell
22 us orally? Without pointing, just tell us so we can see on
23 the map.

24 A. Oh, 929 Richard Road right on the corner here.

25 Richard Road and Cummings Park Drive right on the corner.

1 Q. Would it be where that blue circle is that has the --

2 A. Where the cart, shopping cart.

3 Q. Can you look in that booklet at United States

4 Exhibit 1243. So I think if you flipped it . . .

5 A. Flip?

6 Q. Yeah.

7 A. 1243.

8 Q. What is that a photograph of?

9 A. That's the store, my store.

10 Q. How do you know that that's your store?

11 A. It's clear it is my store.

12 **MR. SAFEEULLAH:** Your Honor, I move to admit into
13 evidence United States Exhibit 1243.

14 **THE COURT:** Without objection, Government
15 Exhibit 1243 will be admitted.

16 (Government Exhibit 1243 was marked and admitted
17 into evidence.)

18 **BY MR. SAFEEULLAH:**

19 Q. This is your store? Is this your store that's on the
20 screen now?

21 A. Yes, sir.

22 Q. And does your store have an alarm or cameras?

23 A. Yes.

24 Q. Did it have cameras on May 27th, 2017?

25 A. Yes.

1 Q. How were the cameras recording? What was it stored
2 to?

3 A. It's recording outside/inside 24/7.

4 Q. And how was it stored?

5 A. What do you mean?

6 Q. Like, once it captures on the camera, where does it go
7 back and store that information if you wanted to look at it
8 at a later date?

9 A. That stay in there for around 30 days.

10 Q. Okay.

11 A. And it delete automatic.

12 Q. And on May 27th, 2017, did your store have cameras
13 that were recording?

14 A. Yes.

15 Q. Have you looked at recordings from your store on that
16 date?

17 A. No.

18 Q. Before you came in here to court, did you look at
19 videos that had recordings from your store?

20 A. Videos for other things, yes. Sometimes I do if
21 something happen around.

22 **MR. SAFEEULLAH:** May I approach this witness and
23 pass?

24 **THE COURT:** You may.

25 ///

1 **BY MR. SAFEEULLAH:**

2 Q. Prior to coming into court today, did you look at
3 those disks?

4 A. Uh-huh.

5 Q. Is that a "yes"?

6 A. One, two, three, four, yeah.

7 **THE COURT:** What have you shown him?

8 **MR. SAFEEULLAH:** United States Exhibit 568, 569,
9 570, and 571.

10 **THE COURT:** Okay.

11 **THE WITNESS:** I saw this today, but I don't look
12 in the store what happened over there. I don't -- the
13 camera is over there. I see everything in here when I come
14 in here.

15 **BY MR. SAFEEULLAH:**

16 Q. And when you looked at the disks when you came here,
17 what's on those disks?

18 A. The pictures inside and outside the store.

19 Q. Are they pictures or are they videos?

20 A. It was videos, yeah. I'm sorry.

21 Q. And how do you know those are videos from your store?

22 A. It's clear. I been watching them three times here.

23 I've been here three times watching those videos.

24 **MR. SAFEEULLAH:** Your Honor, I move to admit into
25 evidence United States Exhibit 568, 569, 570, 571, and

1 request permission to publish them to the jury.

2 **THE COURT:** Were these recordings that you saw on
3 these disks, to your understanding, were these from the date
4 that Mr. Safeeullah has been talking to you about?

5 **THE WITNESS:** The date?

6 **THE COURT:** Yeah. Are they from a particular
7 date? Do you know?

8 **THE WITNESS:** I saw the date on the videos, but
9 I'm not sure. I mean, if that -- for that date, for the
10 dates before, I don't know.

11 **THE COURT:** Okay.

12 **THE WITNESS:** But it's shown on the videos.

13 **THE COURT:** All right. Yeah, you don't happen to
14 know the date, but these are from your store at some point?

15 **THE WITNESS:** It is from my store. Sure about
16 this.

17 **THE COURT:** Okay. All right. Any objection to
18 the admission of 568, 569, 570 and 571?

19 **MR. LUCAS:** Your Honor, can we approach?

20 **THE COURT:** You may. Thank you.

21 (WHEREUPON, a bench conference was had out of the
22 hearing of the jury, as follows:)

23 **MR. LUCAS:** We just want to make sure we object
24 to the fact that he can't remember the date. He doesn't
25 know when those videos were taken.

1 **THE COURT:** You know, and I asked him about that.
2 I wanted to clarify for the record what it was just to, you
3 know, if nothing else, to satisfy myself that they're of
4 something relevant. And I think they've been authenticated
5 by him as what they purport to be, video footage. The only
6 issue was, to me, I was just trying to get the relevance of
7 them before going willy-nilly to admit them.

8 Have you seen -- Mr. Lucas, have you seen the
9 videos?

10 **MR. LUCAS:** I have seen the videos, but what I
11 will tell you is, is that to his point, the date -- the
12 dates are on there, they're date-stamped, but my thing is is
13 that he can't tell you, he just -- he can't tell you if
14 that's from the day that the incident -- he can't tell you
15 that that date stamp is correct. He's saying that he
16 doesn't know.

17 And all I'm saying is that we want to make sure
18 we put on -- you know, have on the record that we object
19 since he can't -- to your point, he can't really -- the
20 relevance of it is in doubt if he can't really say when it
21 occurred or when that taped.

22 **THE COURT:** If one was to look, Mr. Safeeullah,
23 at what's on the videos, would it reflect events that could
24 easily be shown to be relevant?

25 **MR. SAFEEULLAH:** Yes.

1 **THE COURT:** You know what I mean?

2 **MR. SAFEEULLAH:** Yes.

3 **THE COURT:** Uh-huh. Well, what was your thought?
4 Were you going to play them? Were you just going to have
5 him authenticate these --

6 **MR. SAFEEULLAH:** Yes.

7 **THE COURT:** -- and then allow him to leave for
8 the day? You could play them at any time if he was to
9 authenticate them.

10 Is there any additional information you think you
11 could provide that could help you show the relevance of
12 these?

13 **MR. SAFEEULLAH:** Well, he said that they were
14 from his store, and I think there is something else I could
15 ask him to show the relevance of --

16 (Reporter clarification.)

17 **MR. SAFEEULLAH:** -- the relevance of why they're
18 important in this case. But I think he authenticated them
19 by saying that they were from his store, he watched the
20 video, and he knows that they were from his score.

21 **THE COURT:** From his store. Do they have a date
22 stamp on them?

23 **MR. SAFEEULLAH:** I believe they do.

24 **THE COURT:** Okay. Do you think they have a date
25 stamp on there?

1 **MR. LUCAS:** I think so, Your Honor. I can't
2 remember; it's been a minute. But I think they do.

3 **THE COURT:** Here's what I think. Particularly if
4 they have a date stamp, then they probably -- if it shows
5 May 27th and their events on there, if there's not a dispute
6 about that, then it probably meets the standard of
7 admissibility. I just didn't want to be too casual about
8 it.

9 Now, of course, I'm relying on the representation
10 that there are events that would be, you know --

11 **MR. SAFEEULLAH:** Relevance.

12 **THE COURT:** -- of significance. There's a date
13 stamp. If there is sort of an issue otherwise about
14 authenticity, then we probably give anyone a few minutes
15 here before he leaves. And we can play it tomorrow, right?
16 There's no reason --

17 **MR. SAFEEULLAH:** That he has to be here? That's
18 correct.

19 **THE COURT:** Yeah. Okay.

20 **MR. SAFEEULLAH:** Once you get it in --

21 **THE COURT:** Yeah, if there's anything else you
22 want to ask about that. Okay. Thank you.

23 (WHEREUPON, the bench conference concluded, and
24 the following took place within the presence and hearing of
25 the jury:)

1 BY MR. SAFEEULLAH:

2 Q. The disks contain videos; is that correct? The disks
3 that are in front of you, do they contain videos?

4 A. The videos, yes.

5 Q. And are those videos from things inside of your store?

6 A. (Nodding head affirmatively.)

7 Q. Is that a "yes"?

8 A. Yes.

9 Q. And do they depict an altercation inside of your
10 store?

11 A. A what, again?

12 Q. An altercation from inside of your store?

13 A. Like . . .

14 Q. Like a verbal altercation inside of your store? An
15 argument inside of your store?

16 A. In the disks?

17 Q. Yes.

18 A. No, I don't see that.

19 Q. Were you present there that day when these videos were
20 taken?

21 A. I don't remember what happened.

22 Q. Were you --

23 A. I was there, yes.

24 Q. So my question was were you there.

25 A. I was there, yes.

1 Q. And you see yourself in those videos, correct?

2 A. Yes.

3 Q. And based on what happened while you were there, did a
4 man that was working or standing there walk outside of that
5 store?

6 A. Repeat that.

7 Q. Based on what happened inside of your store, did
8 somebody who was inside of your store, an older gentleman,
9 walk outside of the store?

10 A. Okay. Yes.

11 Q. And was there some kind of altercation or conversation
12 between two gentlemen that caused an older man to walk
13 outside?

14 A. They told me that, but I don't hear that myself.

15 **MR. GANGULI:** Objection, Your Honor, as to
16 hearsay.

17 **THE COURT:** I don't know that there was asked for
18 or elicited an out-of-court statement offered for the truth
19 of the matter asserted, so I'll overrule the objection.

20 Let me ask you -- I'm going to jump in for a
21 second and ask this, Mr. Mozeb. Do you know whether there
22 are date stamps on these videos?

23 **THE WITNESS:** Hmm?

24 **THE COURT:** Are there date stamps on these
25 videos?

1 **THE WITNESS:** Again?

2 **THE COURT:** Date stamps. You see a date on the
3 videos?

4 **THE WITNESS:** Yeah. There was in the video.

5 **THE COURT:** Okay. All right.

6 You may continue, Mr. Safeeullah.

7 **MR. SAFEEULLAH:** Your Honor, I'd ask that these
8 videos be admitted and -- as United States Exhibit 568, 569,
9 570, and 571.

10 **THE COURT:** All right. Any objection?

11 **MR. LUCAS:** Your Honor, we'll make the same
12 objection as before.

13 **THE COURT:** All right. Let me do this. I'm
14 going to admit the videos as meeting the base-level standard
15 for authenticity, but when Mr. Safeeullah is done here, if
16 you want to take a couple of minutes, you can certainly
17 cross about that, Mr. Lucas.

18 (Government Exhibits 568 through 571 were marked
19 and admitted into evidence.)

20 **THE COURT:** Anything further from you,
21 Mr. Safeeullah?

22 **MR. SAFEEULLAH:** No, Your Honor.

23 **THE COURT:** All right.

24 Mr. Lucas, you may proceed.

25 **MR. SAFEEULLAH:** Well, no, I thought you meant on

1 that issue. I do have something else, yes.

2 **THE COURT:** Oh, on that issue. Yeah, something
3 else you need to ask? Yes.

4 **MR. SAFEEULLAH:** Can we pull up
5 United States Exhibit 570.

6 (Playing video.)

7 **BY MR. SAFEEULLAH:**

8 Q. Who is the person in this video?

9 A. That's me.

10 Q. The person that just walked wearing a white T-shirt,
11 what color shoes does he have on?

12 A. What color -- white shirt.

13 Q. What color shoes does he have on?

14 A. Shoes? Oh, they're black.

15 Q. What color hat does he have on?

16 A. Blue.

17 Q. Is there a yellow emblem on that hat?

18 A. Yellow, yes.

19 Q. Does that male who you're giving that item have
20 tattoos on his right arm?

21 A. Had shoes -- hand?

22 Q. Does he have tattoos on his right arm?

23 A. Yes.

24 Q. Do you remember what the man in front of you is
25 talking about now?

1 A. No.

2 MR. SAFEEULLAH: Can we pull up
3 United States Exhibit 568.

4 (Playing video.)

5 BY MR. SAFEEULLAH:

6 Q. Is this a recording from your store?

7 A. Yes.

8 MR. SAFEEULLAH: Can we pause the video.

9 BY MR. SAFEEULLAH:

10 Q. Mr. Mozeb, do you try to keep the date and timestamps
11 on videos accurate or inaccurate in your recordings?

12 A. Like . . .

13 Q. The date and time that is on this recording, when you
14 records things at your business, do you try to keep them
15 accurate or inaccurate?

16 A. I don't get the question clear.

17 Q. Okay. I'll withdraw the question.

18 MR. SAFEEULLAH: Can we press Play, please.

19 (Playing video.)

20 THE WITNESS: It is the right time.

21 BY MR. SAFEEULLAH:

22 Q. It is the right time?

23 A. Yeah.

24 Q. Did you just see that altercation or confrontation
25 that just happened in your store?

1 A. No. That old man tell me something, you know, like --

2 Q. Don't tell us what the old man told you.

3 **MR. SAFEEULLAH:** Can we stop this video and pull
4 up United States Exhibit 571.

5 (Playing video.)

6 **BY MR. SAFEEULLAH:**

7 Q. Is this another video from your store?

8 A. Yes.

9 Q. Can you see that pickup truck in this video?

10 A. Yes.

11 Q. Can you see the driver in the pickup truck?

12 A. Yes.

13 Q. Can you see the driver of the passenger -- of the
14 other car there?

15 A. Yeah, the driver.

16 Q. Do you see a four-door pickup truck in the camera now?

17 A. Yes.

18 **MR. SAFEEULLAH:** Your Honor, I have one last
19 video. I'll try to be under 2 minutes.

20 **THE COURT:** All right. Thank you.

21 **MR. SAFEEULLAH:** Can we pull up
22 United States Exhibit 569.

23 (Playing video.)

24 **BY MR. SAFEEULLAH:**

25 Q. Where is this a camera from your store?

1 A. Outside the store.

2 Q. Is this the back of the store?

3 A. Not the back, side to the store.

4 Q. Is this the direction that that Ford pickup truck
5 would have driven in in the previous video that we just
6 walked?

7 A. It looked like. It's not colored in there. But yes,
8 almost is it. I'm not sure.

9 Q. And what's the date stamp on this video?

10 A. The date?

11 Q. That's on this video.

12 A. 05/27/17.

13 **MR. SAFEEULLAH:** I don't have any additional
14 questions for this witness at this time, Your Honor.

15 **THE COURT:** All right. Mr. Lucas, do you have
16 anything?

17 **MR. LUCAS:** I don't have anything, Your Honor.

18 **THE COURT:** All right. Thank you. Mr. Ganguli?

19 **MR. GANGULI:** No questions, Your Honor.

20 **THE COURT:** Mr. Bloom?

21 **MR. BLOOM:** No, Your Honor.

22 **THE COURT:** All right. Thank you, counsel.

23 Mr. Mozeb, you may step down. Thank you.

24 **THE WITNESS:** You're welcome.

25 **THE COURT:** And you are free to leave. Thank you

1 for coming.

2 **THE WITNESS:** You're welcome.

3 (The witness stepped down.)

4 **MR. SAFEEULLAH:** Your Honor, there was one last
5 thing I think that Mr. Mozeb, I think in my haste, I failed
6 to ask him about and get exhibits in, and I'm not sure
7 whether I would be allowed to at this point.

8 **THE COURT:** Do you have something else to ask him
9 about?

10 **MR. SAFEEULLAH:** Yeah. I mean, they're just
11 screenshots from the recording that we just watched.
12 They're in the booklet in front of him, that was in front of
13 him up on the stand, if he could look through those.
14 They're Exhibits 570 through 595.

15 **THE COURT:** 570 is one of the videos, right?

16 **MR. SAFEEULLAH:** Yes. 572 through 595.

17 **THE COURT:** All right. Any objection to
18 re-calling Mr. Mozeb briefly for this purpose?

19 **MR. SAFEEULLAH:** Or stipulate to their admission.

20 **THE COURT:** Will counsel stipulate to the
21 admission of the screenshots?

22 **MR. GANGULI:** No objections to him being
23 re-called to the witness stand, Your Honor.

24 **THE COURT:** Okay. All right.

25 **MR. BLOOM:** No objection, Your Honor.

1 **MR. LUCAS:** Your Honor, we don't have any
2 objection to him being called as a witness back to the stand
3 as long as we can have some cross if necessary.

4 **THE COURT:** Okay. All right. Let's try and do
5 this briefly. And obviously the Court would like the jurors
6 to go home but doesn't want Mr. Mozeb to have to come back
7 unnecessarily, so we'll try and do this promptly.

8 **THE WITNESS:** No problem.

9 (Mr. Mozeb returned to the witness stand.)

10 **BY MR. SAFEEULLAH:**

11 Q. Mr. Mozeb, can you look at the booklet in front of you
12 that has 570 in it -- I mean that has 572, 573, 574? Can
13 you start with 572 and flip through 593?

14 A. Okay. (Witness complies.)

15 Q. Have you looked through 572 all the way to 593?

16 A. Okay. This is 72 through 93.

17 Q. Have you looked from starting at 572 all the way, all
18 the ones up to 593?

19 A. All these? You mean that had I watched the videos?

20 Q. No. I'm asking you can you look at those photographs
21 in the booklet in front of you. I'm not asking you to --

22 A. I think --

23 Q. Mr. Mozeb --

24 A. I look at them now. (Witness complies.)

25 Q. Have you looked through those photographs?

1 A. Yes.

2 Q. What are depicted in those photographs?

3 A. Same thing what I see before.

4 Q. And what is that?

5 A. Pictures around the store inside and outside.

6 Q. And did those pictures come from the surveillance
7 system inside of your store and outside of your store?

8 A. Yes.

9 **MR. SAFEEULLAH:** Your Honor, the United States
10 moves to admit into evidence 572 through 593. I think 573
11 has already been admitted into evidence with Cindy
12 Hernandez.

13 **THE COURT:** All right. Any objection?

14 **MR. GANGULI:** No, Your Honor.

15 **MR. LUCAS:** No, Your Honor.

16 **THE COURT:** And Mr. Bloom? No? Okay.

17 Absent objection, 572 through 593 will be
18 admitted.

19 (Government Exhibits 572, 574 through 593 were
20 marked and admitted into evidence.)

21 **THE COURT:** All right. Anything further,
22 Mr. Safeeullah?

23 **MR. SAFEEULLAH:** No, Your Honor.

24 **THE COURT:** All right. Any cross-examination?

25 **MR. GANGULI:** No, Your Honor.

1 **MR. LUCAS:** Your Honor, I just have a quick
2 question.

3 **THE COURT:** Okay.

4 **CROSS-EXAMINATION**

5 **QUESTIONS BY MR. LUCAS:**

6 Q. Good afternoon. I'll try to keep this really quick.

7 You've watched the video, you've looked at these
8 stills. When -- when the individual who left the store last
9 leaves and you see him get into the car as a passenger, do
10 you recall that when that car leaves your parking lot, it
11 turns to the left? Is that correct?

12 A. What I see in the video now, I'm not sure if it's the
13 same car or different car, the one go to the left. But that
14 car, I don't know if it go right or left, the first one, the
15 small car.

16 Q. The small car.

17 The actual truck actually turns and goes to the right,
18 though -- comes from the right, correct?

19 A. It come -- I don't know where it come from, but it go
20 to the right when they finish.

21 Q. All right. Thank you.

22 A. You're welcome.

23 **THE COURT:** All right. Thank you. You may step
24 down, sir, and you're free to leave.

25 (The witness stepped down.)

1 **THE COURT:** All right, folks. We certainly have
2 kept you longer than anticipated. Appreciate your continued
3 attention and service. I think we ended up imposing on your
4 schedule a bit, although with the best of intentions to get
5 our small business owner back to his store in the morning
6 rather than bringing him back downtown. So we appreciate
7 your continued patience to make that happen.

8 We will recommence 9:00 a.m. tomorrow. Thanks
9 again, and please, as always, no discussing the case, no
10 researching or investigating the case. Thanks very much.

11 (WHEREUPON, the jury was excused from the
12 courtroom at 5:16 p.m., with matters being heard in open
13 court as follows:)

14 **THE COURT:** All right. Thanks. Please be
15 seated. I did want to make some remarks about that sort of
16 admissibility issue of the recordings. You know, there are
17 a couple of things there. There was authentication as to
18 date, and I was satisfied, based on the government's sort of
19 representation which was not in dispute that the cameras
20 were from -- videos were from May 27th. And the witness
21 subsequently confirmed that he said it was the right time.

22 But I did raise the issue because prior to their
23 offering, I had no idea kind of at all what was on there,
24 what it might show, and so I raised the issue.

25 I do think that, you know, if someone in

1 retrospect wants to claim there is an issue of relevance,
2 I'm happy to consider a motion to strike on that basis, so I
3 want to be clear.

4 But I wanted to just kind of raise the issue of
5 relevance on the front end because this was an unusual
6 situation where the discussion with the witness didn't kind
7 of give any indication of sort of what might be reflected on
8 the recording.

9 And I think under different circumstances, had
10 there been an issue in response to what was at the bench
11 conference, you know, be no problem with the Court just
12 taking a couple of minutes itself to review what was on
13 there. But the timing wasn't good for doing that, and I
14 thought we had the -- thought we had what we needed to make
15 the admission based on relevance.

16 But if someone wants to raise the issue of
17 relevance later, if they, for some reason, think this isn't
18 connected to anything relevant, they're free to raise that
19 issue. And if this is not relevant, then -- you know, then
20 it's going to be no issue for the jury to disregard it
21 anyway because there's nothing relevant that they would have
22 taken it for in any event, and disregarding the evidence
23 would be easy anyway.

24 So I just sort of point that out. And the
25 main -- the main point there is, you know, it's helpful to

1 get a sense for what might be reflected on camera in
2 advance.

3 And I do realize that in this particular issue,
4 that Mr. Mozeb appears, you know, a successful businessman,
5 appeared to be a very -- you know, perfectly very much
6 with-it individual. There appeared to be perhaps some
7 communication issues that I think maybe hindered the
8 identification of what was going on, on the tapes. So the
9 long and the short of it, if someone wants to raise an issue
10 of relevance at some point, they are free to do so.

11 All right. Anything else we need to take up
12 before we break for the evening and then reconvene for jury
13 instructions discussion at 8:30? Mr. Safeeullah?

14 **MR. SAFEEULLAH:** No, Your Honor.

15 **THE COURT:** Thank you. Counsel for defendant,
16 anything? No? Doesn't look like it.

17 All right. We'll see counsel at 8:30. Thank
18 you.

19 (WHEREUPON, the foregoing proceedings were
20 adjourned for the day at 5:20 p.m., to be resumed April 19,
21 2023, at 8:30 a.m.)
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25

1 REPORTER'S CERTIFICATE

2
3 I, Deborah K. Watson, Official Court Reporter for
4 the United States District Court for the Middle District of
5 Tennessee, with offices at Nashville, do hereby certify:

6 That I reported on the Stenograph machine the
7 proceedings held in open court on April 18, 2023, in the
8 matter of UNITED STATES OF AMERICA vs. JORGE FLORES, ET AL.,
9 Case No. 3:18-cr-00293; that said proceedings in connection
10 with the hearing were reduced to typewritten form by me; and
11 that the foregoing transcript (Trial Volume 9 of 18, pages 1
12 through 284) is a true and accurate record of said
13 proceedings.

14 This the 24th day of July, 2023.

15
16 /s/ Deborah K. Watson
17 DEBORAH K. WATSON, RPR, CRR
18 Official Court Reporter
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